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VOLUME TWO

By the same Author

MOTHER INDIA
SLAVES OF THE GODS

VOLUME TWO

BY

KATHERINE MAYO

Author of

‘MOTHER INDIA’



LONDON

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FOREWORD

IN the autumn of 1925 I went to India, to observe the practice of the Indian masses in matters affecting public health. In the spring of 1927, the fruit of that survey was published, under the title of *Mother India*.

A few months later some dispute arose, not only in the West but also in India itself, as to the actual nature, extent and importance of child-marriage among Hindus.

In 1928, a special committee of Indians, known as the Age of Consent Committee, set out on behalf of the Indian Legislature to clear up the points in dispute.

This Committee completed its country-wide task of travel and enquiry in about a year. It then submitted its Report, plus the whole of the great mass of testimony that it had gathered, to the Indian Legislature. This Report, and this testimony, approximately 5,000 pages in all, constitute the main source of the present volume.

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The testimony, since it records the views and declares the customs of a large variety of castes and peoples spread over a wide territory, is by no means uniform. But the Report, representing the final and unanimous opinion of experienced Indian jurists before whom all testimony was rendered, gives the best possible pilotage through otherwise difficult waters.

Child-marriage, it points out, to-day exists in India among population-elements other than Hindu. But, wherever this is the case, one of two causes obtains:

Either the element in question is Hindu in origin and, although now professing another faith, is as yet so imperfectly assimilated as to retain, more or less, the traditional Hindu attitude toward women; or the element in question is truly Muslim, but is so hemmed in and infiltrated by a Hindu majority as gradually to have lost something of its own cultural character.

Child-marriage is, in a word, a Hindu concept, and a Hindu responsibility and chiefly a Hindu concern.

Care has therefore been taken, throughout this

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present book, to reject Muslim and European testimony and to quote Hindu witnesses only.

Lest the casual reader, remembering certain child-marriage legislation lately enacted in India, may consider the question now one of closed history, it is necessary, however regretfully, to record one further fact. The evidence of the following pages leads inevitably to this conclusion:

Notwithstanding the Indian Committee's research and discoveries; notwithstanding the Indian Legislature's subsequent enactment of a Child-Marriage Restraint Law, Hindu girl-children in their multi-millions remain, as before, the pawns of social custom and of ancient religious law.

K. M.

Bedford Hills,
New York

TO
THOSE PERSONS IN INDIA
WHO STRIVE TO END
HINDU CHILD-MARRIAGE

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CHAPTER I

WHAT IS HINDU CHILD- MARRIAGE?

WHAT is Hindu child-marriage?

Is it a sublimated betrothal of souls, effected for ritual in the worship of the gods, and deferring until years of maturity the material development of the bond? Is it too mystical a concept for our Western minds to grasp? Does our ignorance betray its own grossness in supposing that premature physical union is implied in the 'betrothal' of the Hindu girl-child?

Or is it, rather, one of this earth's worst cruelties, too wholesale, too potentially costly in its world-implications, to be regarded with indifference by the nations at large?

Or again, whatever this 'child-marriage' may be, is it not an obsolescent practice, rapidly disappearing from modern India?

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And finally, spiritual or carnal, dying or thriving, what concern can it be of ours? Beyond the field alike of our responsibility and of our influence, what do we accomplish by prowling therein? What indeed, save to expose ourselves as busy-bodies, as carping illiberals, as dirtmongers, as gourmets of the unclean, above all as teasers for attack upon our own thin walls of glass?

Such are a few of America's commoner speculations upon a topic that, during the past three years, we have much discussed.

Yet neither the endurance nor the heat of the discussion can be credited wholly to our sense of world-citizenship; too much is due to the incessant and increasing pressure of political propagandists, Hindu and Western, Indian and otherwise, active amongst us in many ways, under many guises, striving for our ears, our minds, and our endorsement.

Most of these people have denounced the injustice, the falsehood, the malice and stupidity, that would fix upon Hinduism the brand of arch-offender against little children. But has any of them, writer or speaker, cited in his own support the most authoritative source yet within public reach – the *Report of*

WHAT IS HINDU CHILD-MARRIAGE?
the Age of Consent Committee, published in Calcutta
in 1929?

The sequence of legislation in the territory now called British India, concerning the 'age of consent' within the marriage bond, is as follows:

Before the year 1860, no enacted law prohibited the intercourse of a man with his wife on the basis of her age;* and no law limited the age of marriage. In 1860, the Government of India included in the Penal Code, as rape, the act of a husband who consummates his marriage before the wife is ten years old. This measure was called the Age of Consent Law.

Thirty years later, in 1891, and chiefly impelled by tragedies uncovered in Bengal, the age of consent, for a wife, was raised to twelve years. This was accomplished in the face of desperate resistance from leaders of Hindu orthodoxy,† who denounced the new enactment as a breach of that religious freedom

* See *Report of the Age of Consent Committee*, 1928-1929 (Calcutta, 1929), p. 9. This volume will hereafter be referred to as '*Report*.'

† Notably by B. G. Tilak in the South, by Krishna Prasanna Sen and Pundit Sasadar Tarkachuramani in Bengal, and by such newspapers as the *Amrita Bazar Patrika* and the *Mahratta*. Cf. *Age of Consent Committee*, 1928-29, *Evidence*, ix, p. 265, Rai Bahadur Badri Dat Joshi, Kumaon, Haldevani, Naini Tal.

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pledged by Queen Victoria to her Indian subjects – a breach, moreover, that struck, not only at the sanctity of the Hindu home, but at the very vitals of the Hindu religion.*

Time passed, slowly developing, in some Hindu minds, unorthodox ideas born of increased contacts with the outer world. The Great War, taking Indian troops abroad, the discoveries incidental upon recruitments, unrest following the war, alike tended to emphasize the relation of physical inferiority to racial status. The enormous Indian death rate, and the Indian's brief 'expectation of life,' reckoned to be, from birth, about twenty-three years, as against America's fifty-six years,† attracted some speculative comment. The work of maternity and child welfare centres served here and there to point out major causes of the country's high mortality. Finally, over

* *Report* p. 10. The introducer of the Bill, Sir Anthony Scoble, claimed, however, that it was 'the right and duty of the State to interfere for the protection of any class of its subjects, where a proved necessity existed.' 'It is unnecessary' comments the Age of Consent Committee, 'to enter into the history of the agitation that followed. It will be sufficient to state that the arguments, advanced against and in support of the measure at the time, have since been in the main repeated on every occasion when similar legislation has been attempted.'

† *Indian Medical Gazette*, April, 1924. *Young India*, Nov. 5th, 1925. *World Almanac*, 1931.

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twenty years after the last previous move, an Indian member of Legislature rose in his seat to propose a second advance in the age of consent.

The Government, however, held that the tendencies above indicated remained as yet too slight to support the weight of a further reform measure. It therefore blocked the progress both of a new bill and of another presently following. This on a theory not without advocates in America – the theory that only dishonour awaits the attempt to control private conduct by force of law, in advance of public opinion.

But in 1925, by a measure emanating from Government itself, the age of consent, for the wife, was raised to thirteen years – this slight advance indicating a hopeful surmise rather than the degree of change actually desired either by Government or by the Indian progressives.

Again two years rolled by. And then at last fresh ground was broken. Content no longer to discuss the 'consent' of the child-wife, Rai Sahib M. Harbilas Sarda, Hindu member from Ajmer-Merwara, introduced in the Indian Legislature a 'Bill to Regulate Marriage of Children Amongst the Hindus.'

In other words, frankly incredulous of the power of

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any law to protect a Hindu wife as such, he would fix a minimum age for marriage itself – a step without precedent in India – and would invalidate any marriage contracted with a girl below the age fixed by law. This Bill was introduced on February 1st, 1927. But not until seven and a half months later did it emerge for debate upon the floor of the House.

The debate of the fifteenth of September struck fire on all sides. Assemblyman Sardar, proponent of the measure, launched his attack with a will. Said he: 'The Bill is a very modest attempt to recognise that female children even amongst Hindus have certain inalienable rights and that the State with any pretensions to civilisation will deem it its duty to protect them. . . .'*

His purpose, he declares, is, first, to stop 'the pernicious custom' of multiplying child-widows; and, second, by stopping child-motherhood, 'to remove the principal impediment to the physical and mental growth of the youth of both sexes and the chief cause of their premature decay and death.' 'The law of the age of consent,' he continues, 'so

* *Legislative Assembly Debates*, Official Report, Sept. 15th, 1927, iv, No. 62, pp. 4406-8.

WHAT IS HINDU CHILD-MARRIAGE?

far as marital relations are concerned, is a dead letter . . . Shall we stand by and see the race sink below the point when regeneration and resuscitation become impossible?’

A second Hindu Assemblyman, Kumar Gang-anand Sinha,* follows: ‘Every Hindu knows to-day that taken as a whole his race is on the downward path of physical deterioration attended by intellectual degeneration and is threatened with virtual extinction . . . [Child-marriage] is sapping the vitals of our race, and to let this continue is to commit racial suicide. . . .’

A third Hindu member, Munshi Iswar Saran,† rises to declare that ‘the Hindu race is dying and one of the causes responsible for our slow decay is early marriage . . . We know the havoc it has created. What are we to-day? . . . It is a most terrible question which we are considering to-day. I beg you, most earnestly, to realise its gravity.’

But the conspicuous feature of the debate was the disagreement, rather than the consonance, of the Hindu elected representatives, on the main points at

* *Ibid.*, p. 4412.

† *Ibid.*, pp. 4446–8.

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issue – points of daily habits of life as lived in their own constituencies.

Thus, Mr. M. K. Acharya, of Madras, would make light of the matter. ‘The whole trouble,’ he says, ‘is a trouble of words; because as soon as the word “marriage” is uttered, to a non-Hindu the impression is conveyed that the boy and girl would be living together as man and wife; it is not so in Hindu society.’* But Mr. Acharya omitted to remark that the marriage of a Hindu girl is sometimes performed when the bride is an unweaned babe asleep in the mother’s arms,† and when, therefore, inconvenience would be found in making her at once a wife *de facto*. And Mr. Acharya’s implication that consummation of marriage awaits the proper maturity of the wife is offset by his colleague, Assemblyman Sinha,‡ who affirms that Hindu child-marriage ‘implies co-habitation at an immature age, sometimes even before puberty, and practically always on the first signs of puberty, resulting in

* *Ibid.*, p. 4451. This statement is made, in effect, by many Indians in America.

† *Ibid.*, p. 4448.

‡ *Ibid.*, p. 4413.

WHAT IS HINDU CHILD-MARRIAGE?
grave physical effects upon the girl and in all the evils of premature child-birth.'

Turning, then, from the nature of Hindu child-marriage to the degree of its prevalence, Assemblyman S. Srinivasa Iyengar,* Advocate-General of Madras, President of the Madras Reform Society, affirms that the practice is not at all common in India, but is, rather, definitely exceptional, affecting only a minor section of the Hindu population. In opposition to which, we find Pundit Madan Modan Malaviya,† of Allahabad, President of the Hindu Mahasabha, Vice-Chancellor of the Benares Hindu University, and the Assembly's acknowledged leader of orthodoxy, delivering his deliberate judgment that to prevent child-marriage would be to effect 'a revolution in Hindu society,' and that to raise the age to twelve years‡ would be 'a great advance, an enormous advance upon the position that exists to-day' – too enormous, he finds, to be wisely undertaken.

On the point whether the custom is waxing or waning, equal contradiction appears. Assemblyman

* *Ibid.*, pp. 4433-4.

† *Ibid.*, p. 4439

‡ *Ibid.*, pp. 4439, 4446.

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Sinha* affirms that 'the tendency towards early marriages is generally on the increase,' while his colleagues, Sir Purshotamdas Thakurdas and Mr. D. V. Belvi,† of Bombay, declare that the opposite is the case.

Enquiring, next, as to which sections of Hindu society are particularly given to the practice under debate, we find the same clash of opinion. For example, Lala Rajpat Rai,‡ modernist, social reformer, nationalist leader, confidently lays down the statement that 'early marriages are confined mostly to what are known in the Hindu community as "the higher castes".'

But Pandit Malaviya,§ certainly no meaner an authority, takes directly opposite ground. 'I wish,' he announces, 'to inform the House that our humblest fellow-subjects or the so-called depressed classes are the largest victims to this evil of early marriages.'

Again, on the question of conflict with the Hindu religion, no less disharmony develops. Assemblymen

* *Ibid.*, p. 4413.

† *Ibid.*, pp. 4415, 4428.

‡ *Ibid.*, p. 4419.

§ *Ibid.*, p. 4445.

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Lajpat Rai and Acharya agree that to legislate against the marriage of the Hindu girl before her twelfth year is no offence against the Hindu code; although their colleague, Mr. D. V. Belvi, asserts that the great majority of Hindus – the orthodox mass to which he himself belongs – will assuredly and most fiercely resent it as such.

But if it is proposed to put teeth into the law by declaring invalid any marriage which shall be performed in violation thereof, that is another matter. 'It is really inconceivable that a Hindu marriage once celebrated according to the Shastras could be invalidated by any authority whatsoever,' declares Mr. Sinha.* And on this position not only his colleague, Mr. M. S. Aney of Berar, but also the Pandit Malaviya† himself, stiffly agree; the latter affirming that the attempt to invalidate 'would not find support on any platform on which the Hindus are properly represented.'

Yet one idea at least is shared by all disputants: Whatever action is to be taken regarding this Hindu Child Marriage Restraint Bill, such action must be

* *Ibid.*, p. 4414.

† *Ibid.*, pp. 4431, 4444.

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determined by Hindu legislators only; for the matter concerns the Hindu people only, and no alien government should presume to interfere; so says Lajpat Rai of the Punjab; so says Iyengar* of Madras. And the Honourable Mr. James Crerar,† speaking for the Government, himself approaches that position when he declares it the duty of the Government of India 'to ensure that where measures undoubtedly impinge very deeply upon the religious ideas and the social customs of very considerable sections of the population, all legitimate interests and all legitimate opinion should be carefully, fully and fairly ascertained.' For, he adds: 'Legislation which is passed without due consideration may have consequences very remote from those which were intended.'

The Central Government of India, in a word, would have the Sarda Bill circulated throughout Provincial Governments to elicit discussion and opinion, before it is put to a vote.

But Jayakar,‡ the Bombay nationalist, thrice scornfully condemns Government's acceptance of so

* *Ibid.*, pp. 4418, 4436.

† *Ibid.*, p. 4417.

‡ *Ibid.*, pp. 4422-5. M. R. Jayakar, in 1930-31 delegate to the Round Table Conference in London.

WHAT IS HINDU CHILD-MARRIAGE? meek an attitude – ‘the attitude,’ he exclaims, of ‘ignorance and timidity.’ The issue at stake demands action, not caution, he asserts. And he lashes out in fierce lament over the passing of ‘that glorious renaissance of British legislation which went on for twenty-five or thirty years, but which unfortunately, absolutely ended with the Morley-Minto Reforms’* a renaissance, he declares, during which the Government of India had courage to act upon the dictates of its own conscience of right, wrong, and the needs of the people, to disregard all outcry raised by its acts, and to handle without gloves crimes practised in the name of the Hindu religion (suttee, infanticide, thuggee, burying alive of lepers, hook-hanging, and the like). ‘I am surprised how those Governments could be more courageous than the present Government,’ Mr. Jayakar† exclaims, and then, in his next phrase, gives his own explanation:

* The Morley-Minto Reforms as embodied in the Indian Councils Act of 1909 ended the autocracy of Britain in India, instituted participation in Government by elected Indian representatives, and began progressive Indianization of the various civil services; which participation and Indianization, through succeeding Reform measures, have since increased.

† *Legislative Assembly Debates*, p. 4424.

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‘They had not then the benefit of so many representatives of the people on the other side to advise them.’

Iyengar* of Madras carries on the attack upon the Government’s caution. ‘Time and again,’ he cries, ‘this Government stands in the way of progress in Hindu society.’ And the fiery Lajpat Rai speaks for his own following when he declares† that ‘a foreign government has retarded the intellectual and social progress of this country by its very dilatory methods and by its slow and cautious measures’

But once again the orthodox leader, Pundit Madan Mohan Malaviya, rising in his place, opposes grave authority to the stormy voices of his friends.‡

‘It has been said, Sir, that the Government has often stood in the way of social legislation. I am sorry I cannot endorse that view. What is the social legislation that we are responsible for?’ – with bitter sarcasm he flings out the taunt. ‘What is the measure of social reform that we ourselves have brought about? Put on the one side the reform that has been brought about by our earnest work day by day, and put on the other side the many pieces

* *Ibid.*, p. 4437. Mr. S. Srinivasa Iyengar.

† *Ibid.*, p. 4417.

‡ *Ibid.*, p. 4440 *et seq.*

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of social legislation which have been passed by the Government and which have effected or helped social reform!’

And forthwith he accuses his Indian colleagues now seated around him, first, of negligence and apathy in that they have always contented themselves with words and empty gestures – have never attempted real educative field-work in their own constituencies against the prevailing evil; and, second, that they would now pitchfork the country into dismay and confusion by forcing the Government’s hand and by precipitately passing a subversive law for whose reception and understanding they, whose duty it was, have done nothing to prepare the peoples.

Discord, dispute, and recrimination were thus the sole fruits of the day’s debate.

Hindu child-marriage, said some, means a spiritual sacrament, implying no premature physical contact. On the contrary, said others, it means forced child-motherhood and a degenerating race.

Hindu child-marriage, said some, is limited in practice to a very small section of the people. On the contrary, said others, it obtains over so wide a

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field that to abolish it would be to revolutionize Hindu society.

Hindu child-marriage, said some, is fast dying out. On the contrary, said others, it is increasing.

Hindu child-marriage, said some, is practised only by the high castes. On the contrary, said others, it prevails for the most part amongst the multitudes lying prostrate below all castes – the Untouchables, the Depressed Classes.

Hindu child-marriage, so several legislators staunchly asserted, may be forbidden by law without offence to the Hindu religion; it should be so forbidden; no disorder will ensue. On the contrary, others most anxiously urged, to pass such a law will be to drive the whole country insane with religious fury, entailing consequences such as no Government can dare to invite.

Hindu child-marriage, declared a few, when performed by Hindu rites but in violation of the law of the land, may properly be declared invalid. On the contrary, protested a greater number, to declare such marriage invalid would be to attack the most sacred citadel of the ancient faith.

‘So be it,’ sighed the Government, in effect.

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‘Now, whatever is uncertain, this much, at least, you have to-day made clear: You, the Hindu members of the Legislature, elected representatives of the Hindu people, are completely at loggerheads as to the basic conditions on which any action of yours should rest. Therefore we propose to circulate this Hindu Child-Marriage Restraint Bill among the several Provincial Governments, all over British India, to invite, for your help in the work before you, the opinion of eminent Indians generally, on points whereon you so widely disagree.’

But Assemblyman Jayakar* indignantly revolts from the thought. ‘Opinion,’ indeed! ‘For what, may I ask? Is it for the elicitation of the obvious truth that the proper place for a child below twelve is the nursery and not the marriage bed? . . . When the social fabric is on fire, we are asked to have “caution,” to find out whether public opinion demands that the fire should be put out!’

And so, when the House divides, the Government is voted down. The Hindu Child-Marriage Restraint Bill shall not be circulated. It shall be referred forthwith to a Select Committee – at whose hands,

* *Ibid.*, p. 4423.

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as one Assemblyman remarks,* it shall receive 'the necessary changes which will make the measure acceptable to this House.'

Four days later, September 19th, 1927, a Hindu member moves, and the House confirms, the nomination of seventeen men, to form the Select Committee. Of these seventeen, eleven are Hindus, two are Muslims, one an Indian Christian; one, the Honourable Mr. James Crerar, is an official of the Viceroy's cabinet; one is an Anglo-Indian, and one a member of the European community. And, from the eagerness of the majority of the Legislature to proceed to action, it may be supposed that the new Committee will quickly get down to work.

But the Government of India, it appears, is not content with the prospect of law-making based on nothing more solid than the loose ends left flying in the debate of September 15th. At the cost of ruffling the dignity of the Legislature, which has voted against such a step,† it therefore proceeds to dispense with legislative sanction, and, by executive order, to circulate the Child-Marriage Restraint

* *Ibid.*, p. 4414. Kumar Ganganand Sinha.

† Cf. *ibid.* (March 26th, 1928), p. 1966.

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Bill among the Provincial Governments. This was done in October, 1927, the resulting White Paper being published in the following February.*

In the four months intervening, however, a storm had swept the political ranks of British India – a swift-born fury of emotion, accusation, counter-accusation, resentment, wrath, and menace, involving not the Legislature only, but also the watch-dogs of the Hindu orthodoxy at large. In the face of so turbulent an outbreak the Viceroy's Government can no longer see its way to be satisfied with its first cautionary step. Before any child-marriage law is rushed into enactment to appease the eagerness of one element and to incite the rage of others, real spade-work, so the Government holds, must dig out and expose to view that unknown thing, the country-wide status of the points now so furiously in dispute. It will no longer suffice to elicit the opinion of Provincial Governments and of the few outstanding men. All manners and conditions of Hindus, all over British India, must be asked both their practice and their mind, in this matter so vitally their concern.

* For a résumé of the opinions elicited, see *After Mother India* by Harry H. Field, (Jonathan Cape, London, 1929), pp 93-103

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Thus it happened that early in February, 1928, the Government of India announced that it would itself appoint an 'Age of Consent Committee,' which should undertake the task just outlined.

This committee as finally made up consisted of ten persons, including four members of the Legislature. All were Indians save one, an English lady doctor.* Of the nine Indians, six were Hindus and

* The personnel of the Committee, sometimes known as the Joshi Committee, from the name of the chairman, was as follows:

Chairman: Sir Moropant Vishwanath Joshi, B.A., LL.B., KT., K.C.I.E., late Home Member of the Executive Council of the Governor of the Central Provinces.

Members

Rai Bahadur Pundit Kanhaiya Lal, M.A., LL.B., late Judge of the Allahabad High Court (Vice-Chairman).

Mr. A. Ramaswami Mudaliyar, B.A., B.L., lately a Member of the Madras Legislative Council (now President, Corporation of Madras).

Khan Bahadur Mahbub Mian Imam Baksh Kadri, B.A., LL.B., O.B.E., lately a District and Sessions Judge in the Bombay Presidency, and now Chief Judicial Officer of the Junagadh State.

Mrs. M. O'Brien Beadon, M.B., B.S. (London), L.S.A., Superintendent, Victoria Government Hospital, Madras.

Mrs. Brij Lal Nehru.

Mr. Satyendra Chandra Mitra, M.A., B.L., M.L.A., Advocate, High Court, Calcutta.

Pundit Thakur Das Bhargava, M.A., LL.B., M.L.A., Advocate, High Court, Lahore (Hissar).

Maulvi Muhammad Yakub, M.L.A., Deputy-President, Legislative Assembly.

Mian Mohammad Shah Nawaz, Bar.-at-Law, M.L.A., Lahore.

With Mr. M. D. Sagane, M.A., LL.B., of the Central Provinces Civil Service, as Secretary.

WHAT IS HINDU CHILD-MARRIAGE?

three were Muslims. Of the six Hindus, some were Brahmins, some of lesser caste, and no two came from the same Province; while the three Muslim members were drawn from the Punjab, the Kathiawar Peninsula, and the United Provinces.

The Standing Finance Committee of the Legislative Assembly, impatient of such procedure, refused to vote the modest sum required for the expenses of the effort. The necessary money was, however, granted by the Government, and, on June 30th, 1928, the new "Age of Consent Committee" began its appointed task.

This, broadly, was to examine and report on the workings of the Penal Code Act of 1925, whereby—as will be recalled, the age of consent, for the wife, was fixed at thirteen years; and to report whether any further changes of law were now necessary to the public interest.

The first business of the Committee was the framing of a questionnaire of twenty-one points, covering the ground of the enquiry, which questionnaire it not only broadcast through the Indian Press but also posted in advance to persons whom it hoped later to interview.

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On September 15th, 1928, the Committee started on tour, to pursue the quest in person. In the course of its journeys it traversed the land from north to south, from east to west, visiting twenty principal cities, as well as many villages. It examined some hundreds of witnesses of all classes and shades of opinion, from medical men, lawyers, politicians, judges, and legislators, to the humblest of field labourers; from Hindu saints to atheist intelligentsia; from Brahmins to Untouchables; from emancipated women with university degrees to orthodox women hidden in the veil of purdah.

The result of this enquiry, on paper, is nine volumes of stenographic evidence, totalling some 4,500 large pages of small type, following a one-volume unanimous *Report* of 353 pages. And as these volumes were primarily prepared for the use of the Indian Legislature, the entire matter, save for certain quotations of ancient Sanskrit texts, was printed in English only; even such few testimonies as were originally rendered in one or another of the 222 modern Indian vernaculars being translated into English in order to be understandable by the Indian Legislature in general.

WHAT IS HINDU CHILD-MARRIAGE?

As the Committee itself says: 'A survey of the social and religious customs, relating to such intimate subjects, has not been undertaken before by any non-official body nor has the assistance of the public been invoked to the same extent.' *

The whole work – a solid bulk of evidence gathered entirely without official participation, not set up for foreign audiences, neither calculated nor self-conscious, but coolly sought and coolly rendered, *in camera*, by Indians, to Indians, in India, on Indian affairs – constitutes, within its field, a source-authority on Things as They Are To-day, the equal of which does not exist.

It is now proposed to examine this source for the light it affords upon points so seriously confused in the minds of Indian legislators, and so much disputed in our own ears.

* *Report*, p. 200.

CHAPTER II

BABIES PREFERRED

UPON the intrinsic nature of Hindu marriage the Age of Consent Committee is unanimous. It reports:

‘There should be, by now, no misconception about the real significance of the ceremony of marriage among Hindus. Marriage is not a contract but a religious sacrament and one of the Samskaras (rites) which is prescribed to every Hindu. It is not a mere betrothal or engagement, from which the parties can break off, but an irrevocable tie which makes the couple husband and wife in the eye of the law and of the public, and after which, the death of the boy leaves the girl a widow.’*

Later the *Report* safeguards this statement from any possible deduction that the sacramental weight rests equally upon man and wife. The ‘irrevocable tie,’ it points out, although eternally binding wife to

* *Report*, p. 92.

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husband, leaves the husband empowered to discard the wife. This he may do whenever she ceases to satisfy him, and with little or no care for her subsequent maintenance or fate.* He is hampered by no bonds of monogamy. 'According to Hindu law, a male Hindu can marry any number of wives,'† and keep them together, if he likes. But the wife rejected, regardless of the cause of her dismissal, retains no place in the world. Public opinion regards her askance; and 'among Hindus generally there is no custom of divorce; and girls cannot re-marry even if discarded.'‡

'Marriage changes the guardianship of the girl, and the husband becomes from the date of marriage the legal guardian,'§ with the right to claim the

* *Report*, p. 141. *Age of Consent Committee, Evidence*, Volume vi, p. 139, M. C. Ghosh, I.C.S., Secretary to Government of Bengal, Judicial Department. See also vi, p. 93, written statement of the Bar Library, High Court, Calcutta. The nine volumes of evidence presented by the Age of Consent Committee will hereinafter be referred to as *Evidence* or by volume number only.

† *Report*, p. 267. See also p. 141; see also *Evidence*, v, p. 356, testimony of Mr. P. Sessa Aiyangar, B.A., B.L., High Court Vakil, Travancore: 'The present state of the Hindu law provides for no divorce. The girl has to continue to be his wife *volens volens* for all her life, while . . . the husband . . . is not prohibited from marrying any number of wives and casting off at his own sweet will and pleasure any of them.'

‡ *Report*, p. 19.

§ *Ibid.*, p. 140.

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custody of her person whenever such action commends itself to his fancy. The husband's title to sue for restitution of conjugal rights is not affected by the wife's immaturity. And although the Age of Consent Committee* expresses the hope that no court of law to-day would hand over a child of tender years at the demand of 'an unreasonable husband,' that hope is obviously made tremulous by the nature of the evidence gathered and recorded.

'The father,' as one witness assures the committee, 'according to the law as it is to-day, would be liable for kidnapping his own daughter if he keeps her at his place against the wishes of her husband.'†

'Once a girl is married . . . she is the property of her husband,' says another.‡ Still others recount their personal experiences and those of friends, in being forced by court orders to surrender a daughter too young and too small for the purpose intended, into her husband's hands. And many repeat familiar religious texts whose lesson, imbibed by the Hindu girl-baby with her mother's milk, becomes the core

* *Ibid.*, p. 141.

† *Evidence*, II, p. 431, Meherban Sardar J. V. Pathakji, Surat.

‡ *Ibid.*, II, p. 357, Bhogilal Chotalal Sutaria, Cloth Market, Ahmedabad.

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of her nature and clinches her personal acquiescence in anything required of her.

‘In this country,’ says Pundit Bhargava,* ‘the wife looks upon her husband as her second god on earth and from her very birth she is brought [up] to regard him as such. The teachings of the religion under which she is brought up holds out that her worship of her lord is the worship that would appease God. . . . If by religion and tradition, inherited through successive ages, her whole mentality is permeated with love, worship and sacrifice for her husband, her temporal situation and her economic dependence upon her husband, leave her absolutely no chance of enjoying the least sort of independence.’

Before marriage, we also learn, the Hindu girl is held to exist in a material sense only. Her spiritual entity begins with her marriage, her soul having no being save as attained through her husband.†

* *Report*, p. 246, personal minute of Pundit Thakurdas Bhargava, Member, Age of Consent Committee.

† *Legislative Assembly Debates*, Sept. 4th, 1929, p. 267. M. S. Seshu Ayyangar, Brahmin, Member from Madura, speaking in the Indian Legislature, said of the unmarried Hindu girl-child: ‘She is in material existence already, but . . . for the creation of a spiritual existence . . . this initiation ceremony of marriage is necessary for a girl.’

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Turning now to the age at which the girl-child born of Hindu parents may be laid under this 'irrevocable tie' that makes her a wife in the eyes of the law and of the Hindu religion, we find ourselves still on firm ground. Prior to the year 1929, the law of India had fixed at thirteen years the age at which a wife becomes legally liable to her husband's demand for consummation of marriage. But it assumed no control whatever over the age of marriage itself, such control remaining in the hands of the parents. And the latest Census figures, those of 1921, show a recorded total of 233,602 girls married or widowed under the age of five years – a figure probably in error on the minor side.*

'Age is no consideration . . . The question of age does not arise . . . I have seen girls of three and four being married,' testifies the Assistant-Director of Public Health of Sind, himself a Hindu, addressing the Age of Consent Committee.†

Irrespective of age, 'every twelfth year comes a

'According to Hindu Scriptures, marriage is also indispensable for woman: without discharging the duties pertaining to marriage and family, she can never become fit even for Salvation.' U. P. Krishnamacharya, Benares, *Evidence*, iv, p. 220.

* Cf. *Report*, pp. 94-5, for further tables.

† *Evidence*, II, p. 31, Dr. R. V. Shiveshwarkar.

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cycle when all the girls must be married,' affirms the Civil Surgeon of Sakkur, dealing with the customs of Kathiawar.*

In the United Provinces, a son of the Hindu political leader, Pundit Madan Mohan Malaviya, states, of the lower classes, that 'they sometimes marry when the girl is still in the embryo but usually [the bride's age] is five to seven years.† In this discrimination as to class, a brother pundit of the United Provinces‡ practically agrees; the prevailing age of brides among the lower classes being, he says, 'between 3 or 4 and 5 and 6,' although the higher classes marry their girls as late as 'from 8 to 12.' But a third and equal authority from this same Province§ makes no qualification on basis of social status in submitting his statement that 'many people like to marry their girls early, even 5 and 6.'

To pursue the review of testimony on this one point, as offered by Hindus throughout British India, is unnecessary. Witnesses continue to cite

* *Ibid.*, ii, p. 25, Rao Bahadur P. T. Kothari. See also ii, pp. 224, 357.

† *Ibid.*, viii, p. 219, Pundit Rama Kant Malaviya.

‡ *Ibid.*, p. 191, Jagannath Prasad Shukla.

§ *Ibid.*, p. 238, Pundit Behari Lal Nehru.

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the marriage of the unborn. Others parallel the statement of an Indian lady in public life, who affirms* that in the wide orthodox district of Gaya, in Berar, her own section, all castes, from the highest downward, marry their girls at the age of five or six, with the sole exception of some few families, regardless of caste, who have accepted Western education. Or again, other Hindus, reputable men, as confidently attest that the ordinary age of the bride, within their view, is ten or twelve or fourteen years.

Yet, however widely these witnesses differ, they need not discredit each other. Each individual, though usually, perhaps, unaware of the fact made clear by his words, speaks from personal impressions of a limited area, both social and geographic, beyond which area his knowledge fades into surmise.

As Mr. Justice Ramesam of the High Court of Madras puts the point:† 'Every man thinks of his community, of his district, and is unable to extend his vision to other communities.'

But the unlike fragments, brought together, make toward a truthful composite. For the majority

* *Ibid.*, vii, p. 72, Mrs. S. K. P. Sinha.

† *Ibid.*, iv, p. 352.

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of those who address the Age of Consent Committee do so in an obvious spirit of respectful co-operation, and in an honest desire to record, each one, his best thought, his most accurate observation, for the advantage of that fractional interest which, to him, is India.

From following this piebald trail through the entire body of All-India testimony, the seeker returns, however, bearing certain few general conclusions: as, that no one does or can challenge the legal right of parent or guardian to give his girl-child in marriage whenever he pleases; that this right is not infrequently used in extreme degree; that the parent or guardian is as unhampered by Hindu public opinion as he is by law; and that the 'irrevocable tie' of marriage may be fixed upon a girl-baby, in any caste, in any place, with little fear of offending any Hindu, god or man, to the extent of adverse action.

Now, to take up a new topic, *How and when did Hindu child-marriage originate?*

The common explanation, long parroted from tongue to tongue, by Hindu and Westerner alike, has been that the Muslim invader, seizing the land

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and the fatness thereof, was prone to seize, also, its pleasing young maidens. And that then and therefore the Hindu native formed the habit of shifting the charge of his daughters to another Hindu's hand, at the earliest feasible moment.

The Muslim, however, rather damagingly meets this view by remarking that when his conqueror forbears rode south through the Frontier passes, they found the Hindu native already steeped in a practice that Islam held both foolish and shameful.

As to what happened really, and when, and why, the Age of Consent Committee took opinion from many sources; having weighed and digested which, it finds decision still impossible. Certain Hindu texts, it points out, seem to show that in prehistoric Vedic days, child-marriage was not upheld by the Aryan ancestors of the present Hindu.

Yet, the *Report* continues:*

'The Smritis† advocate the marriage of girls

* *Report*, p. 93.

† That part of Sanskrit institutes of religious law that has been handed down by tradition, in contra-distinction to *Sruti*, direct revelation.

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of 8 and 10 years of age, but it is not possible to state whether they record an existing practice or put forward an ideal. Some witnesses have alleged that the custom began after the Muslim invasion and was due to the fact that married girls were immune from capture by the invaders. Some witnesses have even traced it back to the Scythian or Greek invasion. We have not however been furnished with any historic basis for any of these allegations and the origin of the custom must continue to remain obscure.*

But now, out from the fogs of speculation, out through the brushwood of measured phrases, one rough-horned fact comes shoving its way to the fore. The fact is this:

For a period so long that none knows its beginning, the Brahmin has been intensively cultivating, and with priestly authority handing on, a passion for immature girl-children in sexual use. 'The results are before us. 'Here in Calcutta,' affirms a respon-

• The following dates may here be of interest

Vedic period	remote prehistoric antiquity
Greek invasion	(Alexander the Great) 326 B C
Scythian invasion	roughly A D 1st century
Earliest Muslim invasion	A D 986 7

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sible official,* 'the police get girls of 4, 5 and 6 from the brothels.'

* *Evidence*, vi, p. 133, M. C. Ghosh, I.C.S., Secretary to the Government of Bengal, Judicial Department, statement of December 21st, 1928. See also *Evidence*, vi, p. 97, statement of S. K. Sen, on behalf of the Bar Library Club, High Court of Calcutta, Dec. 30th, 1928.

In this connection, witnesses attest that rich Hindu patrons of the Devadasis, or Hindu temple prostitutes, pay high prices for the 'virgin's honour' of child recruits. Cf. *Evidence*, iii, p. 466. 'In some communities the girls are sold, and the earlier you sell the more money you get.' *Ibid.*, p. 254, D. G. Dalvi, Saraswat Brahmin, Bombay. See *Ibid.*, vii, pp. 26, 28, 243. *Ibid.*, i, p. 17.

CHAPTER III

THE BRAHMIN

WHETHER or not the Brahmin still thinks his passion for girl-children in sexual use is divinely bred, he certainly believes its gratification as much his inalienable right as is the air he breathes. And he is ready to defend that right against all comers, to the full extent of his power.

Now, to understand something of the strength of that power, its subtlety, its penetration, its deep-rooted strangle hold on the life of the Hindu peoples, one must look at the structure of Hindu society – a broad-based pyramid, whose apex is the Brahmin.

To describe him as he functions in common life rather than as he sounds in his self-made epic, the Brahmin is that sublime object for whose adulation, service, and convenience the rest of Hindu humanity exists. Impossible to exaggerate the skill, the cunning, the foresight with which, since time immemorial, he has engaged his world in the per-

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formance of that cynical comedy in which he has cast himself as demi-god and hero.

From pre-birth to post-death each step in the life of his fellow-Hindus is laid under material tax to the Brahmin. In money, in goods, in food, in clothing, in jewels, in adulation, in place and pride of place, all through his existence the Hindu of all other castes is paying him tribute. Let the victim try to evade; the price becomes higher. Let him try to escape; escape there is none, for the Brahmin holds the keys of earth and heaven. Let him rise in red wrath; he is horribly foredoomed; for to harm the Brahmin is to plunge into nether hell.

In confident phrases, members of the god-like clan remind the Committee of these essential truths. 'Hindu castes other than Brahmin,' to use the words of one of the elect,* 'have nothing to do with the spiritual side but have only to attend to their business according to the structure of Hindu society. . . . In fact the duty that is ordained upon them is only material.' Whereas, he goes on to

* *Evidence*, v, p. 205, K. Rama Aiyangar, B.A., B.L., Advocate of the High Court, Madura, lately member of the Legislative Assembly and of the Madras Legislative Council.

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distinguish, the Brahmins 'live for others,' and are composed of a natural essence so exalted that, automatically, they 'are creating spiritual benefit both for [themselves] and for the world'; in consequence of which endowment 'they needn't go to make any special effort to attain spiritual benefit.'

And this pillar of orthodoxy further declares, in the presence of his compatriots, the members of the Age of Consent Committee, that by early consummation of marriage with a wife not yet in puberty, he calls up in himself a peculiar divine grace; which grace, after first transfusing his own being with its blessedness, thence floods forth as spiritual benefit to the world at large.

The Brahminic law of marriage, as generally accepted by the great Hindu orthodoxy, is thus quoted by the Bar Library of the High Court of Calcutta:*

'If a child is married before the sixth year of her life her parents go to a first-class Heaven, i.e., attain the highest rebirth possible.

'If between the sixth and ninth year the parents go to a second-class Heaven.

* *Ibid.*, vi, p. 92, written statement, dated August 13th, 1928.

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‘If between the ninth and eleventh year only to Hell, i.e., the worst re-birth possible.

‘The idea being that puberty should be attained in the house of the father-in-law.’

Over and over again, in many forms, from many scriptures, the Brahminic law is read into the *Evidence*. Thus, from the *Dharma Sindhu*:* ‘If a girl be not given in marriage when she has reached the twelfth year, her mother and father as well as her elder brother, these three, go to the infernal regions . . . That Brahmin who, being blinded by vanity, espouses such a girl, should not be accosted, and should not be allowed to sit at a feast in the same line with Brahmins.’

Again, from the *Yagnavalka Smriti*,† seventh chapter:‡ ‘The mother, father and the elder brother, all three attain Hell if they do not see that the marriage of a girl is performed before she attains puberty.

‘He who takes that girl in marriage is not to be

* *Ibid.*, iii, p. 712, offered in evidence by T. D. Dharmadhikary, District and Sessions Judge, Raipur.

† *Smriti*: that part of the Hindu religious law which is held to have no human authorship, but to have been perceived, by sages, as divinely existent. In other words, the *Smritis* are divine revelations.

‡ *Evidence*, iv, p. 317.

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spoken to, nor is he to be entertained as a guest or an equal, he being considered the husband of a low caste woman (because the girl became practically low caste by not being given in marriage at the proper time before maturity).

‘Therefore the marriage of a girl before she attains maturity is admitted, but that of a girl of eight is most welcome.

‘ . . . She who lives in her father’s abode and attains her puberty before being married is to be banished and is not even to be seen ever afterwards.

‘She, having become impure in this world and for the world to come, has not a right for marriage. And he who marries her has not got the purity in him for the worship of Gods and of his forefathers.’

Of all Brahminic religious law the most immutable is that laid down in the Vedas. ‘It is the duty of all Brahmins to learn the Vedas,’ affirms the spokesman of one Brahmin organization, the Sanatan Dharm Pracharak Sabha, of South India.* Yet, he would have the Committee remember, ‘the per-

* *Ibid.*, v, p. 214, Mahalinga Iyer, Kumbhakonam.

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formance of early marriage is more paramount than the reading of Vedas.’

And a brother Brahmin* thus develops the grip of the obligation, quoting from *Manu Smriti*:

‘In the case of a Brahmin, in order that he may be a perfect Brahmin he must be born to Brahmin parents. Secondly, he must be born to parents who have been properly married, i.e., the mother must have been married before puberty; because if the marriage takes [place] after puberty she ceases to be a Brahmin; so that the child born out of that wedlock is . . . not a Brahmin child; so that you stand to lose your caste.’

Mingled with these stern hammerings of the dogmatic code runs a secondary theme – that which praises the divine wisdom upon which dogma rests – a wisdom in this case taking cognizance of the weakness of woman. Since moral frailty is of her essence, the law in its mercy would save her from herself. The Age of Consent Committee was offered much testimony on this point, which the following four examples will sufficiently serve to illustrate:

‘Cupid overtakes the hearts of girls in chief at

* *Ibid.*, 11, p. 62, Dewan Bahadur T. R. Ramachandra Iyer, of Madras.

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an early age. . . . A girl's desire for sexual intercourse is eight times greater than that of males.* Hence by marrying girls at an early age a channel is opened for them to fix it on their respective husbands and to regulate it nowhere else.'†

' . . . When there is appetite, it is the best time for giving food, and not after the appetite passes off, or becomes stale, and it is also playing with dangerous material, if one were to consider that a woman's chastity should remain at that high standard as the Brahmins are enjoined to desire.'‡

'Taking care of the biological impulses of the fair sex which begin to operate functionally much earlier than those in the boys, they are betrothed and united in marriage tie even while the sex impulses have not begun to operate yet. The couple, from the moment of their marital union, begin to cherish a love that is inimitable and quite unknown to the modern world, towards each other, which

* Additional testimony on this point is found in *Evidence*, viii, p. 205, Dr. S. K. Mukherji, L.M.S., Rai Bahadur, Allahabad. 'There is a very widely held belief that the female is eight times as sexual as the man.'

† *Ibid.*, ix, p. 362, B. R. Yugalnand, Secretary to Satyavadi Sanatan Dharm Goshithi Sabha, Gonda, United Provinces. iv, p. 394, V. Krishna Reddi, B.A., B.L., of Vellore, Madras, says that pre-puberty marriages are Brahminically designed to 'give no chance for the girl to go wrong.'

‡ *Ibid.*, v, p. 16, C. S. Cheluva Iyer, B.A., LL.B., Ootacamund.

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grows luxuriantly in the unsullied soil of their tender heart fed by a constant inflow of the essential vital fluid of a series of religious duties . . . and nourished by the evergreen manures of a spiritual and moral ethics . . . into such an unimpeachable and unshaken affinity towards each other that even Satan would find it hard to dismantle or disrupt.*

‘At the present state of our society there is neither scope nor inclination for the general run of girls among all classes to indulge in literary pursuits, tennis, badminton or channel swimming, or any other similar pursuits to distract them from sexual thoughts. . . . Conservative and cynical as this view may be considered, one cannot in practical life shut one’s eyes on this side of the picture. . . . It is to be borne in mind that we are as much responsible for safeguarding the morality of our girls as for their health and their progeny.’†

And that the Brahmin, between health and moral rectitude, will choose, for his girls, the narrow path, is evident. Says a presiding magistrate:

‘The Brahmins are quite conscious that marriage

* *Ibid.*, iv, p. 251, written statement of Brahma Shri K. G. Natesa Sastrigal, Madras.

† *Ibid.*, v, p. 332, M. L. Narayana Iyer, B.A., B.L., Madras.

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at puberty or before has got some physical disadvantages which are more than compensated by this being in harmony with the moral Government of the Universe which inflicts the penalty of extinction of the race or of the family for its breach. . . .’*

A few there are who, with Sir Tej Bahadur Sapru,† could say:

‘You cannot reconcile common sense with the Shastras or with the orthodox books on religion. That is my honest opinion.’

But the obstinate fact remains that Sir Tej Bahadur Sapru and those minded with him are, as his fellow Hindus urge or admit, of that ‘infinitesimal minority’ – ‘the western-educated intelligentsia’; whereas the Shastras have cast those iron customs that dictate daily life for the majority of the ninety-two per cent illiterate Hindu peoples.

Specific sacred texts in great variety are laid before the Committee as exposing the Divine Will in the matter of age of marriage for Brahmin girls. Re-

* *Ibid.*, p. 323, A. Perianayakan, B.A., President of the Bench Court, Srivilliputtur.

† *Ibid.*, viii, p. 246. Sir Tej Bahadur Sapru, eminent in Indian political life, was a delegate to the Round Table Conference in London, 1930-31. His testimony before the Age of Consent Committee will be found at some length in Appendix iii of this book.

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viewing them all at the conclusion of this section of its work, the Committee reports.*

‘We do not deem it necessary or profitable to discuss the various texts, as these have been amply discussed and contrary conclusions arrived at by individual theologians. The latest pronouncement is by the All-India Brahmin Conference at Benares . . .’† an extract from the proceedings of which is given below:‡

“ . . . Any rule restricting that a Brahmin girl should not be married before 10 is not acceptable to us. This is so by reason of the text ‘after that, i.e., 10, she is in menses (unclean)’.”

‘The decision of the Dharmacharyas or Religious Heads,’ continues the *Report*,§ ‘was as follows:

“ . . . The best time for the marriage of girls is the eighth year from conception; ninth and tenth years the next best; after that up to puberty ranks low; while after puberty it is absolutely reprehensible.”

* *Report*, p. 108.

† This Pronouncement of the All-India Brahmin Conference is dated November 4th, 1928.

‡ *Report*, p. 109.

§ *Ibid.*, pp. 111-12

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‘We have accepted the latest pronouncement of the Benares pundits quoted above,’ the *Report* concludes, ‘as a statement of the effect of Shastric texts from the extreme orthodox point of view.’

In weighing which conclusion one must keep in mind the fact that the Benares Brahmin pundits and their extreme orthodox point of view set the social and moral standard for at least eighty per cent of Hindu India.

CHAPTER IV

BORN BAD

WHEN is the Hindu marriage consummated? When is the Hindu's 'betrothed' made wife in fact?

The question, to the Hindu, is of immeasurable importance; and as, in his hundreds, he answers it, he paints stroke by stroke a picture of his mind, while revealing the practical quality of that socio-religious law under which he lives and moves and has his being.

The purpose of marriage, he declares, quoting his sacred writ in proof, is to beget sons – as many sons as possible, beginning as soon as possible,* of a wife as young as possible.

For a son born to a Hindu father by a wife consummated by or before puberty is a source of spiritual advancement both to deceased ancestors

* *Evidence*, vi, pp. 59–60, Mahamahopadhyaya Ashutosh Sastri, Ex-Principal, Sanskrit College, Calcutta. Mahamahopadhyaya is an academic title meaning 'very great learned man.' ii, p. 435, N. S. Lokur, B.A., B.L., LL.B., District and Sessions Judge, Ahmedabad.

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and to descendants yet unborn.* Further, this son saves the father himself from hell.†

Just as the father who, neglecting to marry his daughter and send her to her husband before her puberty, is held guilty of the sin of causing abortion,‡ so the husband who fails to consummate his marriage within sixteen days of the wife's attainment of puberty becomes guilty of heinous crime – the crime

* *Ibid.*, iv, p. 221, U. P. Krishnamacharya of Benares, quoting from *Vishnu*, Chapter xxiv.

† *Ibid.*, viii, p. 114, Mahamahopadhyaya Pundit Murali Dhara Jha, Ramkatora, Benares. viii, p. 176, Mahamahopadhyaya, Dr. Ganganatha Jha, M.A., D.LITT., LL.D., Vice-chancellor of Allahabad Univ., says: 'The motive behind early consummation is in the main purely religious. The old Hindus wished to have as many sons as possible and therefore, did not like to miss a single chance. That is how the practice started and the law-givers made it a very severe offence to miss a single chance. . . . If one were not to try his best to beget children there would be no justification for his marrying at all – the begetting of sons being the sole purpose of marriage.' See also viii, p. 208, statement, Jan. 16th, 1929, of Dr. S. K. Mukherji, L.M.S., Allahabad Maternity and Child Welfare League. Speaking particularly of 'Brahmins, Chamars [leather-working Untouchables] and Bengalis,' Dr. Mukherji affirms of the husband of a child-wife: 'He is not concerned with puberty at all. Whenever he sees that he has charge of his wife, and whenever he is alone, he consummates.'

‡ *Ibid.*, p. 116, Mahamahopadhyaya Pundit Murali Dhara Jha. iv, p. 221. *Vasishtha*, chapter xv, quoted by U. P. Krishnamacharya of Benares 'Fearing the appearances of the menses, the father shall marry his daughter while still she runs about naked. . . . As often as a maiden (unmarried) menstruates, her father and mother become guilty of killing the embryo; such is the sacred law.'

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called *brunahatya*, or the killing of a Brahmin in the womb.*

Now, the killing of a Brahmin, in whatever state of development, is a sin to shrivel the stoutest soul. The very gods in heaven are said to have been punished for that deed, and they alone can tell when a mere human being might finish paying the surviving Brahmins for so appalling an iniquity. Therefore, through the ages, this subject has received special attention, that its pitfalls might be avoided.

Amongst such pitfalls is found the curious fact that, in the case of a girl twelve years old by Hindu reckoning,† ‘if there is no actual puberty [appearance of menses] at twelve, it is supposed to be internal.’‡ The bearing of this point needs little emphasis. The man who leaves an eleven-year-old wife, as the West reckons age, unconsummated,

* *Ibid.*, v, p. 178. M. R. Ry. Natesa Ayyar Avl., B.A., B.L., Madura. iv, p. 63. Dewan Bahadur T. R. Ramachandra Iyer, Madras. See also iv, p. 221; viii, p. 117; viii, p. 155, Vircohwat Bhattacharjee, Benares, says: ‘Consummation is absolutely necessary as soon as puberty comes. It is written in the Vedas . . . If these injunctions are transgressed the sin of foetus-killing is incurred.’

† The Indian mode of reckoning age is to begin before birth, at conception. See *post*, p. 96.

‡ *Evidence*, viii, p. 154, Vircohwat Bhattacharjee, Kaviraj of Benares, citing Charak

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risks both his immortal soul and the peace of his ancestors.

Furthermore, whether he would or no, a father is compelled to this action by the frailty of the female sex. On this detail, speaking before the Age of Consent Committee, both Brahmin and lower castes give much testimony. 'Postponement of cohabitation to any length of time after puberty is no doubt a sin and any sane man who has any respect for the religion of his country will [not] attempt to conform to it,' a learned Madrassi Brahmin deposes.*

A second Madrassi similarly explains that the girl-child must 'get herself disciplined' through actual consummation of marriage 'to look upon one individual whether he be an ugly man or a learned man as her lord and husband. That can be done only when her age has not reached such limit as would arouse sexual impulse in her. The moment sexual impulse is aroused that cannot be done.'†

Again, a member of the Bombay Bench states the case:‡

* *Ibid.*, iv, p. 253, Brahma Shri K. G. Natesa Sastrigal, Editor *Kalpadruma*, Senior Physician, Venkatramana Dispensary, Madras.

† *Ibid.*, v, p. 175. M. R. Ry Natesa Ayyar Avl, B.A., B.L., Madura.

‡ *Ibid.*, iii, p. 693, R. J. Amardekar, B.A., LL.B., Officiating District

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‘The Indian knows that a girl in this country may become a mother while she is still a baby in intellect and self-control, knows that while still a child her passions wake, knows that he cannot keep her ignorant and knows that he cannot at that age trust to her principles.’

Therefore, he concludes, the current system, for all its defects, has prevailed through the ages as the alternative of ‘indiscretion,’ spelling ‘calamity and ruin.’

From the opposite side of the peninsula, a Bengali official* contributes the information that girls in his country ‘are precocious to a degree and unless steps be taken for providing universal education, moral training and occupation of these girls, and for

and Sessions, Judge, Hoshangabad. iv, p. 448, Mahamahopadhyaya Sastracharya, Siva Dandapaniswami Dikshitar, Chidambaram, Aug. 9th, 1928: ‘The husband must take care not to make her go astray for want of intercourse at the proper time. Every man should have his daughter married at all events before the age of puberty.’ iv, p. 457, K. S. Krishna Sastrial, Principal Madras Sanskrit College, Aug. 13th, 1928: ‘When a girl attains maturity after her twelfth year, she has got a longing and capacity for intercourse, and within the sixteenth day after her attaining puberty, her consummation should take place. So say the Shastras. If, by some reason, it has to be delayed, it must be performed within the sixteenth day of the second menstruation or of the third so that there may be no room for secret vices while she remains in her father’s home.’

* *Ibid.*, vi, p. 267, Rai Jatindra Nath Ghose Bahadur, B.L., Chairman, District Board, Khulna, Bengal.

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changing the whole religious and moral outlook of our society, the deferring of the consummation of marriage till a conventional age . . . will lead to a state of immorality – which is unknown to our society and which must be resisted by all means.’

This opinion is somewhat amplified by another Bengali, definitely commissioned in women’s behalf.*

‘ . . . It would be a negation of all reason and detrimental to the internal peace of our society if any restriction be sought to be imposed upon the consummation of marriage. I firmly believe that any forced abstinence . . . will tend to leave both the husband and the wife in “mid-air” as it were, which . . . would have ultimately very bad effect upon the health, particularly of the latter, and upon the morals of society at large.’

A volume might be built up of similar extracts from Hindu testimony laid before the Age of Consent Committee in support of the theory that a Hindu girl-child, if not made wife before she reaches conscious womanhood, must needs go wrong. And of those witnessing to this effect, the majority, perhaps, seem to have adopted the follow-

* *Ibid.*, vi, p. 234, Balai Chand Adhya, Assistant Secretary, Hooghly District, Women’s Protection League

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ing species of thought from amongst the many attributed to Manu, their Scriptural law-giver,* concerning women:

‘Through their passion for men, through their mutable temper, through their natural heartlessness, they become disloyal toward their husbands, however carefully they may be guarded in this world.’

‘A woman is forbidden from the shortest association with a man other than her father, husband or her son because it might bring an opportunity for repentances for her husband’s and father’s family.’

But other Hindu testimony, seeking for feminine weakness a cause apart from natural inferiority, finds it in early environment. Says such a seeker:†

‘Only the Brahmin women generally favour the early consummation of marriage for their children . . . The life of leisure and ease they live, the obscene songs and rituals they revel in at the time of a girl attaining puberty, the indecent pictures and paintings that adorn the walls of their homes, the precociousness of their intellect and the conse-

* *Manu*, ix, 15, and *Manusmriti*, ix, Sloka No. 4, as quoted by Pundit Jamnua Prasad Tripathy, Professor of Dharmasastra, Government D. S. Sanskrit College, Muzaffarpore, Sept. 5th, 1928.

† *Evidence*, iv, p. 423, Rao Bahadur M. Krishnaswami Reddi Garu, B.A., President, Chingleput District Board, Madras.

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quent reflex on their sex life, and lastly the instinct in the blood are dangerous elements for the preservation of hymeneal virginity. Only on this account early consummation is resorted to as a means of maintaining social safety.'

'As soon as a baby-girl is born her mind is filled with the idea of marriage. So much nonsense is talked in her presence,' a woman admits, sorrowing.*

Of this suggestion we find a Brahmin barrister, of thirty-four years' practice, tacitly in support.†

'... Generally the husbands ... by their experience of the general moral standard of boys and girls both in their community and in other communities, rich or low, think that their wives after they attain puberty should not be allowed to stay in their parents' houses one moment longer lest their morals should be corrupted.'

And, lest it be forgotten that the Brahmin is the social as well as the religious leader of the Hindu world, another of the master caste recalls the fact, while frankly pointing to its consequences.‡

* *Ibid.*, iii, pp. 596, Mrs. Anasuyabai Kale, Member of the Legislative Council of Nagpur, Central Provinces.

† *Ibid.*, iv, p. 128, C. Venkatasubbramiah, High Court Vakil, George Town, Madras.

‡ *Ibid.*, p. 405, S. Ramasami Iyer, High Court Vakil, Mylapore, Madras.

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‘The practices of the Hindu community in regard to child marriage and consummation are in my opinion barbarous . . . When the Brahmin community in which the male members are most advanced intellectually and socially continues such practices with callous indifference and often with self-satisfaction and pride there is no wonder that the general position of women in other communities who usually copy Brahmin customs and observances and who are less advanced in education and in social position should be even lower.’

Many witnesses from the several quarters of British India, enlarging upon the subjects just indicated, speak with a freedom possible only in the quiet of a small audience chamber. So doing, they go into details essential to their purpose, but impossible to reproduce here.* Little children, both boys and girls, they lament, naturally develop an unnatural, pervert and exhausting precocity, under the stimulus in which they are steeped; and the con-

* See *Evidence*, v, p. 538, statement of S. S. Setlur, B.A., LL.B., Advocate High Court of Bombay and Madras. iii, p. 580, statement of Superintendent, Daga Memorial Hospital, Nagpur. iv, p. 384, statement Aug. 6th, 1928, of Dewan Bahadur Govindoss Chathoorbhoojdoss, Ex-Sheriff of Madras.

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tinuance of such stimulus, through generations, through centuries, may have produced a racial tendency, if not a type.

But what can be said for the justice that, in affirming the tendency, even the type, would attach its original onus, together with its heaviest penalties, to the helpless girl-child alone, as to a baser animal?

‘There is no apprehension of girls going wrong if marriage is put off, if they are allowed to move in good social atmosphere,’ protests a Brahmin* who has quit the tradition of her caste. With her, in the main, the larger number of Hindu women witnesses who appear before the Committee agree. And although their very response to the Committee’s invitation to testify, their very act in leaving their homes on such an errand shows them to be members of the new intelligentsia and wholly unrepresentative of the great body of Hindu women, the fact remains that, as they appeared, they impressed the Committee with their soundness and truth.

The Committee, indeed, flatly challenges the good faith of persons who insist that the Hindu

* *Ibid.*, v, p. 291 (Mrs.) Kamala Bai R. L. Rao, First Class Bench Magistrate, Tinnevely, Madras.

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girl-child, unwed and unconsummated at puberty, must go astray. The opinion runs:*

‘The Committee feels that this argument is put forward without a genuine belief in its cogency and without realising that the argument, if based on facts, may be a serious reflection on Indian homes.’

Turning now from the subject of feminine moral inferiority to its corollary, religious command to consummated child-wifehood, we find that even on the existence of such a command pundits disagree. But, where pundits disagree, we are told, custom rules.†

Says the *Report*, ‘The present practice of early consummation is more a matter of custom than religion.’‡

Nor was the Committee lacking in country-wide testimony to support its conclusion. And such testimony, though coming almost entirely from the smallest class, the Hindu intelligentsia, demands its representation in these pages:

From the far West a Hindu lawyer declares:§

* *Report*, p. 114.

† *Ibid.*, p. 106.

‡ *Ibid.*, p. 98.

§ *Evidence*, iii, p. 279, N. P. Patankar, B.A., LL.B., High Court Vakil, Nasik, Bombay.

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‘Religious injunction is only a pretext or a weapon in the hands of the agitators against reforms. The violation of the injunction that is believed to proceed from Shastric works can be atoned for by spending a few annas and feeding a few Brahmins.’

Says another, caustically:* ‘I do not think religion has anything to do with consummation of marriage, and if any one raises a conscientious objection and cites a text from a religious book, the reply to him should be that the expiation is very easy and costs only a trifle, and therefore his conscience in this respect can be set at rest without much trouble.’

Out from the heart of the South a non-Brahmin scoffs:†

‘All this orthodox opposition is a mere mockery, in the face of [the Brahmin’s] daily conduct quite in opposition to the Smriti rules. No Brahmin should serve the Government, according to the Smrities. That is greater sin than marrying a girl after puberty. Do they care for such injunctions? The orthodox opposition is a selfish affair. All these rules which

* *Ibid.*, p. 334, B. V. Jadhav, M.A., LL.B., J.P., Member Legislative Council, Bombay.

† *Ibid.*, v, p. 397, M. R. Ry. B. Venkatapati Raju Garu, B.A., B.L., C.I.E., Vizagapatam.

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[inconveniently] affect them are thrown overboard, while insisting on observance of a rule which affects voiceless children.'

'The talk of religious injunction in these matters is all rubbish,' comes a voice from Bengal.* 'Whenever they occur they occur through the promptings of beastly propensities.'

Nevertheless, so the Committee reports,† some thirty million Indian girls, or about half the girl-children to-day alive in India, are fated, if they live, to 'early marriage.'

Of these thirty millions, it finds,‡ pre-puberty consummation will be required 'to a far greater extent than may be ordinarily supposed,' while as to the remainder, 'consummation soon after puberty is almost universal.'

* *Ibid.*, vi, p. 463, Durgadas Guha Ray, B.A., B.L., Manager Pathia Raj. Mymensingh, Bengal.

† *Report*, p. 95.

‡ *Ibid.*, p. 97.

CHAPTER V

SOCIAL CLIMBERS

As to the voice of the girl herself, in this matter of her marriage, the All-India Hindu evidence, save for the word of a rare scattering of progressives, is practically unanimous.

‘Is it the idea that the desire of the girl should be satisfied as soon as she attains puberty?’ a member of the Age of Consent Committee enquires of a Brahmin witness.*

‘I have never known of cases where the girl is consulted in these matters,’ comes the reply.

A second committee-man takes up the question

‘Don’t you think [any girl] should have a voice in the selection of her husband?’ he demands of the Brahmin then under examination.†

‘I think she cannot select a husband properly,’ responds the witness. ‘During the time that she

* *Evidence*, iv, p. 42, Dewan Bahadur C. V. Viswanatha Sastri, of Tondiarpet, Madras.

† *Ibid.*, p. 237, U. P. Krishnamacharya, of Benares, Hindu.

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may be most useful to society she lacks experience and also she is led away easily.'

'Can she be independent in any way?' persists the examiner. 'Not in the house of her husband' replies the Brahmin. 'In the outside world she has no place.'

Among the Hindu witnesses called by the Age of Consent Committee are some who protest that a girl ought to take part in the selection of her future proprietor, and that she should therefore be left unwed until an age sufficiently advanced to have developed her judgment. Compared to the volume of opinion thereby challenged, these protests are few and faint indeed. Yet such voices, one knows, multiply toward dawn. And their tone, however faint and intermittent, makes harmony with the great World-Theme of Day.

But that World-Theme, to the Hindu ear, contains another strain – a strong strain clashing with the first – a strain spun of man's ambition – of desire to reach upwards in material position. And not all the ages of caste rule in India, not all the ages of confinement in air-tight social compartments, have sufficed to annihilate, in this respect, the Hindu's

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common humanity. Exactly like the rest of mankind, he covets more and yet more of his fellows' deference – a tendency which, during the last half century has grown with feeding.

Since the British occupation comparative peace has reigned throughout the peninsula called India. The natural domestic tension bred of fundamental Hindu-Muslim differences has, to be sure, continued to spur the populace into brief orgies of savagery drenched in blood. But no outer foe has crossed the border. The northern passes, once the invader's well-trodden highroad, have been kept inviolate. No robber chieftains within have terrorised the peoples, no State has warred on State. The Mutiny furnished a violent interlude, but during the past century, property has been reasonably secure. Plague, cholera, and smallpox have been combated and to a considerable degree diminished. The extremes of famine have been wiped out. Good highroads and railroads, replacing mud-troughs and dust-wallows, have opened the country for the transportation of people, produce, and supplies. Rural Co-operative Banking Systems have begun cutting into the field of the usurer, breaking his

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ancient and all-pervasive strangle hold on the people's earning-power, and training the people in self-help. Great irrigation schemes* have enormously increased both the food supply of the country and the extent of its habitable areas; poor men drawn from overcrowded regions live on the fatness of new farm land born of the desert by new water.

On the other hand it may be said with equal truth that extravagant Hindu customs, in weddings and dowries, still impoverish families to the third and fourth generations, wasting in a day more than a lifetime of industry can earn; that 75,000,000 head of worthless horned cattle, made and kept worthless by the working of the Hindu religious code, still roam the land, in their misery devouring annually, to no man's profit, food of cash value four times exceeding the total land revenue of British India; that still a vast army of able-bodied men, sometime estimated as one-fourth of the Hindu population, having adopted the life of religious beggars, because it is religiously meritorious to live by begging,

* The average area, in British India, irrigated by Government works was, in 1925-6, 28,100,000 acres. *Statesman's Year Book*, 1930. The irrigated areas of the United States of America in 1926 totalled 20,471,000 acres. *World Almanac*, 1931.

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subsist in idleness on the remainder of the Hindu people;* and that forty per cent of the world's total gold production and thirty per cent of the world's total silver production, annually drafted into India, is, by its Indian owners, either buried, hoarded in its crude form, or converted into ornaments; but not coined, not transmuted into currency, not invested in any form. Which hoardings alone, reported the American Trade Commissioner† in 1927, 'put to productive uses, or loaned out in the world's money markets . . . would suffice to make India one of the powerful nations of the world.'

Each one of these practices constitutes in itself a ceaseless major draught on the economic endurance of the country. And the burden of the population upon the resources of the country has increased by over 54,000,000 persons during the fifty years preceding the 1921 Census.

* Of these beggars Lala Lajpat Rai says in his *National Education in India* (London, 1920), p. 37 'We find that to-day a good part of the nation (sometimes estimated at one-fourth), having abandoned all productive economic work, engages itself in making the people believe that next to becoming a Sadhu [a begging holy man] himself, the best thing for man to do to avoid damnation is to feed and maintain Sadhus.'

† *The Bombay Bullion Market*, Don C. Bliss, Jr., U.S. Bureau of Foreign and Domestic Commerce, Trade Information Bulletin, No. 457, pp. 5-6

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Nevertheless, in balancing the economic scales of all British India, the position is too obvious to debate. Since 1858, and especially in the last half century, the people of India have been increasingly better off, more secure in their well-being, more at rest in the enjoyment of personal safety and in the accumulation of material possessions, in so far as they care for such possessions, than ever they had been at any other period in recorded history.

Hindus, Muslims, Sikhs, and Parsees have prospered and enjoyed their prosperity, according to their standards and their individual capacities.

But the Hindu has been specially and heavily limited by his religious ideas and the implications thereof.

For example, the Hindu cannot break caste bonds, ascending from the caste into which he was born to enter a caste above; for his caste is his fate, his Karma, the inevitable fruit of deeds done in past incarnations. But with better food, with better dress, with better housing, if such he desires, with increased power, with increased learning and higher place, even the Hindu can and does assume the social habits of the caste above, as do men under like

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conditions in London or Berlin, in Chicago or New York.

Now the orthodox Brahmin, for eighty per cent of Hindu India, remains the unchallenged arbiter, as he is the unchallengeable apex of the social scale. The orthodox Brahmin, therefore, is the man whose social habits the Hindu social aspirant will assume. The orthodox Brahmin, as we have seen, declares his marriage to a child essential to his own spiritual superiority and worldly godship. Therefore, the Brahmin caste, numbering some 14,000,000 members scattered over India, acts as an enormous moral influence to promote child-marriage.

It is true that amongst the Brahmins themselves some have revolted, under the effects of Western education, of contact with Westerners, and of economic conditions. And these, who are mostly either Brahmo-Samajists (a reformed offshoot of Hinduism, numbering, by the last census, 6,388 persons) or men who in their modernity have discarded all religion, often marry their daughters at the age of fourteen or more.

But rebels against the ancient way must face a

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powerful enemy – the outraged opinion of fellow caste men, of neighbours, of family and friends; must surrender domestic peace because of the conservatism, religious conviction, and social pride of the elder women of the households; must face loss of prestige, even to the fear of ostracism. And many a prominent Western-educated Hindu reformer, who has eloquently denounced child-marriage from the public platform or upon the floor of the Legislature, has quietly succumbed to social pressure in the marriage of his own daughters.

As one Brahmin,* conspicuous in public life, puts the case: ‘ . . . Educated people say it is want of education but I know brilliant graduates of Universities having long tufts of hairs who would observe every old social rule and marry their daughters at the age of ten or eleven.’

And Sir Tej Bahadur Sapru,† in the course of a

* *Evidence*, vi, p. 5, Amar Nath Datt, M.L.A., Advocate of the High Court, President of the Arya Samaj of Burdwan, member of the Indian Legislative Assembly, v, p. 414, Rao Sahib T. S. Tirumurti, B.A., M.B. and C.M., Professor of Pathology, Medical College, Vizagapatam: ‘The fear of social ostracism, the fear of the community is much more predominant than the moral convictions of the individual, who dare not go against society, for . . . peace at home and abroad.’

† *Ibid.*, viii, p. 253. For the testimony of Sir Tej Bahadur Sapru at greater length see Appendix iii.

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testimony of penetrating unreserve, declares of his fellow Hindus:

‘So far as the bulk of the educated people are concerned they are prepared to rebel against other things but not against their social system. That is my idea of my educated compatriots. . . . They fight shy of their intellectual convictions.’

The Secretary* of an important Calcutta Brahmin Association officially testifies that during the years 1927 and 1928 he has known of but two Brahmins who married a girl after puberty, and that these two men lost standing by the act.

‘If I marry my daughter after she attains puberty, society will look down upon me. I have to respect the feelings of the society in which I live because I want their help,’ a Brahmin barrister explains.†

‘The man thinks that he will be lowered in the estimate of others if he does not celebrate the marriage before puberty,’ remarks yet another

* *Ibid.*, vi, p. 85, Sarat Chandra Sankhya Vedanta Tirtha, Calcutta, v, p. 80, T. A. Sessa Ayyar Avl, B.A., B.L., Calicut. ‘In the whole of Malabar I know of one instance only’ – of a Brahmin who has married a daughter after her attainment of puberty.

† *Ibid.*, v, p. 42, K. R. Sundaram Ayyar, Ootacamund.

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witness.* And one of the Age of Consent Committee understandingly helps out the implication:

‘There is just this question of degree. It may be as high as outcasting or it may be – just a little lowering of the eyelids.’

In any case, the attack strikes straight at the Hindu’s most vulnerable point – his social prestige in the eyes of his world.

The nine volumes of evidence taken by the Age of Consent Committee abound in illustrations of this theme. Thus, in the following dialogue, where the Advocate-General of Madras Presidency,† himself a Brahmin, is interrogated:

A member of the Age of Consent Committee: ‘Can you tell me of any community in which pre-puberty marriages prevail, or in which pre-puberty marriages are considered essential?’

‘A. In all non-Brahmin communities where they want to pose as high-grade.

‘Q. In what kind of non-Brahmins?’

‘A. Practically everywhere.

‘Q. And among Brahmins?’

* *Ibid.*, viii, p. 9. Gauri Shankar Prasad, B.A., LL.B., Advocate of the High Court of Benares.

† *Ibid.*, iv, p. 51, Rao Bahadur C. V. Anantakrishna Aiyar.

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‘A. Among Brahmins the rule is to have only pre-puberty marriage.’

Again, ‘Since when has this system of early marriage [among the lower caste] been operating?’ asks the Committee of a non-Brahmin witness before them:*

‘A. For the last fifteen or twenty years . . . In poorer classes because they copy and in rich classes out of vanity . . . They want to spend as much money as possible to advertise that they are rich.

‘Q. . . . Is it a desire to look big in the social scale?

‘A. Yes, I may say so.’

A Madrassi magistrate† speaks as follows: ‘The non-Brahmins . . . in their eagerness to vie with the higher castes have out-heroded them . . . Even the lower castes of artizans, coolies and others are following the example in the hope that they will be treated with respect by their neighbours.’

A Brahmin lady witness,‡ being asked in what

* *Ibid.*, v, p. 227, Vannia Nadar Ramaswami, of Virudhunagar.

† *Ibid.*, iv, p. 380, Dewan Bahadur M. Gopalswamy Mudaliar, B.A., B.L., President of the High Court, Bellary.

‡ *Ibid.*, v, p. 361, Mrs. Rajeshwaramba, Secretary of the Women’s Association of Vizagapatam, Madras.

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communities other than Brahmin pre-puberty marriage prevails, answers:

‘Komtis, Goldsmiths, Shudras are copying the Brahmins. As a rule they had no pre-puberty marriages before.

‘Q. How long have they been copying the Brahmins?

‘A. For the last eighteen or twenty years.’

A Hindu Government official* explains that, although the modernized Hindu favours an advance in the marriage age of girls, amongst the ‘socially backward,’ as he calls them, ‘post-puberty marriages though permitted are not considered *à la mode*. The desire to become Brahminised has appreciably influenced these castes in favour of the pre-puberty marriages. This however, is a recent development.’

And always wider than the spread of Western education, more pervasive than the contacts and influence of Westerners, has worked this factor of economic improvement among the lower-caste folk, bringing new prides and social consequence.

To come down to closer analysis is to find many

* *Ibid.*, iii, p. 466, R. P. Pandit, M.A., LL.B., Assistant Commissioner of Belgaum, Bombay Presidency.

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caste or local variations and many subdivisional influences, some making for later marriage of girls, some tending to pull the age down. To go into them all in the small compass of this book were to bewilder the reader with a maze of detail. More will therefore be accomplished by quoting the conclusions, as to the present extent of the custom's prevalence, presented to the world by the Indian Age of Consent Committee, after their Indian minds had weighed the evidence of Indian witnesses heard in every province of India save one.*

The Committee, then, submits as its final opinion that about half the girl-children of India (this would mean considerably more than half the Hindu girl-children, since Christians, Buddhists, Sikhs, and late-marrying Muslims all bring down the general average) or nearly 30,000,000 of Indian girls, are married before they reach their fourteenth birthday as we of the West reckon age.† Of these 30,000,000 children, over 2,350,000, by the same manner of reckoning, are married under nine years of age.‡

* The small province of Ajmer-Merwara, although represented by witnesses who appeared for examination in other places, was not visited by the Age of Consent Committee.

† See *post*, page 96.

‡ *Report*, pp. 94-5.

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The *Report* further submits:*

‘There is no doubt that the practice of early marriage is being gradually abandoned by several castes and communities. But the pace of improvement is exceedingly slow. Moreover, progress in one community is counterbalanced by retrogression elsewhere, and while castes and classes which are considered advanced may be getting over the practice, others are adopting the older customs to an increasing extent, with a view, possibly, to ascend in the scale of the caste hierarchy . . . Nor has the progress been so steady and continuous as to engender the hope that a time will come when, by voluntary effort, early marriages will be a thing of the past.’

* *Ibid.*, p. 96.

CHAPTER VI

WHO KNOWS A GIRL'S AGE!

'ALL but a very small proportion of the people have only the vaguest ideas of their age,' testifies a Hindu magistrate, addressing the Age of Consent Committee.*

'We ask a man in the village,' contributes another witness,† '“What is your boy's age?” and he says “Whatever you like to put it down as.” We again ask him “What after all *is* the boy's age?” and the reply is “Seven or eight or whatever you please.”'

'Majority of persons,' says a third,‡ 'have no idea as to what and when they attain twelve years, thirteen years or fourteen years of age. That is not

* *Evidence*, vi, p. 448, Amalkrishna Mukerji, of Faridpur, Bengal. See also p. 19. Charu Chandra Mitra, Calcutta attorney: 'The generality of the people do not know their own ages nor the ages of their children.'

† *Ibid.*, i, p. 424, Rev. J. C. Chatterjee, M.A., M.L.A., Municipal Commissioner of Delhi; Member, Legislative Assembly.

‡ *Ibid.*, vii, p. 182, U. K. Prasad, of the District Board of Palaman. See also Rai Bahadur A. N. Mitter, M.A., B.L., District and Sessions Judge of Manbhum, Sambalpur. vii, p. 183. vi, pp. 19, 254.

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all, they do not even know when they attain twenty, thirty or forty years of age . . . In some cases they are at difficulty to determine if their age is eight or twelve years.'

And a fourth:* 'Generally our people are fond of stating their ages in round numbers which are multiples of five or ten . . . There is however a secondary fondness for the figure twelve or sixteen. Census workers are familiar with this phenomenon.' And again: 'If you go about in the villages and ask a small girl her age, she will say "about twelve".'

Birth registration is not generally compulsory in the rural areas,† where live nine-tenths of the Hindu population of all castes. Such registers as are kept in the villages are compiled in hit-or-miss fashion and enjoy no fixed duration of life. 'They are not preserved under any regulation or law,' complains a high Provincial officer.‡ 'If any happen to be preserved they do it by chance as it were.'

* *Ibid.*, ii, pp. 351, 354, Mrs. Aruna Devi Mukerjee, Brahmo-Samaj Hindu, wife and collaborator of an experienced Census Chief.

† *Ibid.*, ix, p. 151. Birth registration comes under the head of Provincial and transferred subjects.

‡ *Ibid.*, ix, p. 173, Mukandi Lal, Deputy President United Provinces Legislative Council. See also ix, p. 179; viii, p. 245; vii, pp. 27-28, 184; vi, pp. 319, 403-4.

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And that the conditions in municipalities also leave something to be desired may be gathered from the statement of another member of the Bench.* Speaking of the United Provinces, his own field of labour, Judge Prasad says: 'In all the places where Municipalities exist, the reporting of births is made by the sweeper [an illiterate Untouchable servant] attached to the house. He does not do the work in a responsible manner.' A second channel of error is indicated,† in connection with 'the great difficulty of fixing the identity of a child from the birth register entries.'

Coming to a deliberate type of inaccuracy, 'the [birth] registers are tampered with every day,' bluntly affirms the President‡ of the Bar Association of Delhi, voicing thereby an opinion expressed by many other witnesses in all quarters of the country, one of whom says:§

* *Ibid.*, ix, p. 330, District Judge Raghunath Prasad, Hindu, of Moradabad. See also Medical Officer of Health, Allahabad, viii, p. 245.

† *Ibid.*, i, p. 449, testimony of Jugal Kishore, President of an Orthodox Hindu league, of Delhi. See also ix, pp. 437, 439, 465, and iii, pp. 7, 8, 25.

‡ *Ibid.*, i, p. 462, Mr. Pyare Lal. See also i, p. 263; vii, p. 184; iii, p. 523; vi, p. 275.

§ *Ibid.*, i, p. 22, Jagat Prasad, Hindu, Accountant-General of Posts and Telegraphs, Simla.

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‘I do not consider registration by municipalities very reliable, because I know people generally obtain false certificates when necessary. Registration is generally in the hands of underlings.’

‘Q. If you get the priests who celebrate the marriage to maintain a register? . . .

‘A. That will probably be as unreliable, because the priests are as unreliable as the other class of people . . . They may prepare the registers correctly but when necessary they may forge whole registers or make false entries.’

And if here it be asked why, since the Hindu is so vaguely interested in his own age, the forging of registers and the falsification of birth entries should engage country-wide industry, the answer may be sought in the region of sex. Registers and birth entries are attacked, as a rule, in the matter of females only.

As a previous chapter has shown, the male Brahmin and his lower-caste imitators may marry whenever and as often as they like, neither age nor condition of mind, body or estate, in any wise impairing the privilege; but the girl should be wed before puberty. Not only so, but she must be

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married within certain rigidly restricted caste-marriage circles, sometimes so depleted in membership as to make a possible mate exceedingly hard to find; or, once found, securable only at a ruinous dowry. Both mate and dowry must, nevertheless, be produced; for if the arrival of puberty discovers the child unwed, her family is publicly ashamed and her forebears incur in the life hereafter a punishment as ingenious as it is incredible,* only to be escaped through penances involving heavy cash fines – the cash, however, payable in this world, and conveniently enough, to the divinely provided Brahmin.

Thus it becomes increasingly evident why the birth of a daughter, bringing open grief to the house, elicits the formal condolences of friends. The continued bearing of daughters, indeed, constitutes scriptural grounds for divorcing the woman addicted to that vice. And infanticide† of girls,

* *Ibid.*, vii, pp. 213, 214, 227.

† *Ibid.*, i, p. 127, Dr. Lachman Singh, President Singh Association, Sheikhpura. See also i, pp. 139-40, Mr. Hazara Singh Cheema, B.A., Lahore:

‘Q. You have said, “if the child born is a daughter, she is cursed . . . from her birth and in nine cases out of ten cases she is doomed to die through exposure?” Do you mean to say that they are deliberately exposed so that they may die?’

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whether thinly disguised or outright, is described by several witnesses as a yet current practice in its old familiar fields, despite the law – some adding in explanation that a girl-child is considered to be ‘not the gift of God.’*

Thus, finally, it becomes clear, first, that registration of the birth of a daughter is not amongst those public duties whose prompt performance commands prompt attention; and second, that if, where registration has been made, the girl remains unmarried up to a period threatening to impugn her physical condition, her father is tempted to alter the record, lest it become a weapon in the hands of those who would use it to mulct him in purse and pride.

Vague, therefore, as the Hindu confesses himself in regard to his own age, he admits a special vagueness in respect to the age of his daughters. ‘The ages of girls are elastic,’ a Chief Court Justice

‘A. The tendency on the part of the mother is not to bring her up in the proper manner . . . If it were a boy they take good care.’

‘Q. . . . Do you mean to say that [the girls] have practically been killed by neglect?’

‘A. Yes . . . I can speak with authority that this exists all over the Punjab.’

* *Ibid.*, i, p. 181.

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affirms,* 'girls are of just that age that they or their parents, particularly their mothers, wish them to be.'

'Especially in all higher orders of society it is practically impossible to determine the age of the girl,' affirms the Vice-Chancellor of Allahabad University.†

And again we read: 'The age of girls . . . is not often known in the husband's household.'‡

Not age, therefore, but the attainment of puberty, at whatever time it comes, marks the great boundary in the Hindu girl's life.

At this point, if we credit the material before us, we have something to learn and to unlearn. Many of us have accepted the visiting Hindu's statement that his marrying habits are to be accounted for by the fact that girls mature much earlier in his country than in ours; and, particularly, that such earlier maturing is due to climate.

Yet the Age of Consent Committee, after studying

* *Ibid.*, ix, p. 243, Hon. Mr. Justice E. M. Nannavutty, I.C.S., Chief Court of Oudh at Lucknow.

† *Ibid.*, viii, p. 178, Mahamahopadhyaya Dr Ganganatha Jha. See Pundit Behari Lal Nehru, viii, p. 233. 'They don't know the ages of their girls.' Also vii, p. 147. 'There is always difficulty felt in every court case about the exact age of the girl.' I, p. 214. See also p. 361.

‡ *Ibid.*, i, p. 422, Rev. J. C. Chatterjee.

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the testimony of hundreds of Indian witnesses, in connection with the medical text-books of the West, rejects the theory of a wide variance, in normal age of puberty, between India and America or England, concluding that 'the difference in the usual age of onset of menstruation between Indian and European girls is approximately one year.'

Nor does it hold with the idea that, when greater differences occur, climate is the deciding factor. Rather the Committee inclines to believe that early appearance of menses, if and where it occurs in India, is less the result of climate than of the particular mental atmosphere of the home in which the child is reared.

Witnesses repeatedly state, in the *Evidence*, not only that mental suggestion operates, but also that physical means are employed, to induce the occurrence of premature menses;* just as starvation is sometimes resorted to, to postpone the appearance of menses when such appearance would anticipate the father's convenience.†

* *Ibid.*, v, p. 297, Appaswami Naidu, Tinnevely, Madras. 'Among the Brahmins, especially among Tamil Brahmins, false puberty is created and consummation of marriage is performed.'

† *Ibid.*, p. 399, M. R. Ry. B. Venkatapati Raju Garu, B.A., B.L., Viza-

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Climate can scarcely be charged with phenomena developed in this fashion; for the same might be produced in Greenland by similar intensive methods.

Says the Committee, finally:* 'In view of the fact that the eminent English gynaecologists . . . hold that early sexual excitement tends to produce precocious puberty, it is significant that witnesses from Bengal and Madras state that in classes amongst whom early marriage prevails, puberty may even begin at eight, ten or eleven years.'†

But what does this 'eight, ten or eleven' mean? Where years are so few, the question becomes crucial.

Now it is worthy of note that in all the heated discussions of late centred upon the subject of Hindu child-marriage, the attention of the West has not been invited to the Hindu's method of reckoning age.

gapatam, Madras. 'In some cases marriages are postponed . . . while starving the girl to secure emaciation, so as to help postponement of attaining "the age," for want of suitable matches.'

* *Report*, p. 160.

† See in support, *Evidence*, vi, p. 91, testimony Bar Library (Bar Association), High Court, Calcutta. And pp. 268, 445, 450, 451, testimony of Bengali Hindu magistrates; and pp. 454, 462; and p. 280, testimony of Lady Protiva Mitter: 'From the age of eight upwards to twelve and fourteen among the more enlightened and progressive classes.' All Bengali evidence.

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Let the fact be here defined in the words of the late Sir Surendranath Banerjea,* Brahmin, journalist, barrister, and publicist.

‘The truth is, that the Indian method of reckoning the age of a man is different from that followed amongst Englishmen. We reckon the age not from the time of one’s birth, but from the time of the conception of the child in the mother’s womb, and, accordingly, when the boy has completed his fifteenth year, he would be known as sixteen years old and would describe himself such. Among Englishmen his age would be only fifteen.’

Therefore, when the Indian Age of Consent Committee informs the Indian Legislature, without specifying that it is adopting a foreign method of age-reckoning, that certain mishandled Indian girls are said to attain puberty at ‘eight, ten or eleven years,’ we may read ‘seven, nine and ten years’ to reach our English of their meaning.

* *A Nation in the Making* by Sir Surendranath Banerjea (Oxford University Press, London, 1925), p. 12. See also *Evidence*, vi, p. 160; iv, p. 552; v, p. 14. Also vii, p. 219.

CHAPTER VII

A MAN'S OWN IS HIS OWN

It was the Province of Bengal, as will be remembered, that gave birth to the particular series of tragedies which, being by chance laid bare to the world, forced the first amendment of the Age of Consent Law.

By this amendment, enacted in 1891, consummation of marriage with a wife under twelve years of age was forbidden.

An interval of thirty-seven years having since elapsed, the Indian Age of Consent Committee of 1928-29 turned with special interest to Bengal, as to a gauge of progress or change.

To examine in detail the stenographic report of Bengal's testimony is to find many witnesses, lay and priest, declaring that Hindu religious law, as found in the Shastras, forbids consummation before puberty, but commands its performance within sixteen days after the first menses; and they cite

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Manu, Yagnavalka, Parasara, Lalapani, Vishnu, Gautama, and further sources to that effect. Other disputants, citing other books and verses, affirm that religious law (*a*) permits pre-puberty consummation; (*b*) recommends abstinence from consummation until after the wife's puberty; (*c*) would have consummation delayed until sixteen; (*d*) imposes consummation at puberty, even when it occurs at the age of eight (seven, by Western age-reckoning), puberty alone being held as the absolute proof of the girl's fitness.*

But once and again, amongst all these quoters of writ, arises some Hindu cynic to remark, coldly, that a text, a priest, or a pundit can be produced for any argument, but that throughout all conflicting words two constant facts show ever forth immutable: first, that the Hindu wife in Bengal as elsewhere, by force of law both secular and divine, is subject to her husband's control; and second, that Hindu public opinion as to sexual intercourse generally supports his use of that control, in the manner thus simply indicated by a Benares witness.†

* *Evidence*, vi, pp. 29-30, Mr. Charu Chandra Mitra, Calcutta. p. 270, Mahamahopadhyaya Pundit Anant Krishna Sastry, Calcutta.

† *Ibid.*, viii, p. 155, Vinodchwar Bhattacharjee, Benares.

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'This must be taken in the same light as eating, drinking, etc. If a man touches other people's property, it is theft. If it is his own, he can use it as and when he likes. The same is the case here.'

Says a Bengali Brahmin educator* whose view is supported by many a compatriot:

'Post-puberty marriage does not take place amongst the Brahmins. However liberal may be the views of educated orthodox Hindus in Bengal, [in] the higher castes, they are all very anxious to give their daughters in marriage before the attainment of puberty . . . and those who violate this rule, they don't divulge the fact.'

Now, the Brahmin's immemorial dictatorship, whether in fashion or in piety, holds fast for the Hindus of Bengal. The road the Brahmin takes, all humbler castes still follow. To him, then, must

* *Ibid.*, vi, p. 63, Mahamahopadhyaya Ashutosh Strisa, M.A., Principal Sanskrit College, Calcutta.

Many witnesses testify that if, by mischance, the menses appear before the girl is married, every effort is made to conceal the fact, because of its effect in reducing her value as a bride and increasing the necessary size of her dowry. Cf. ix, p. 243, Hon. Mr. Justice Nanavutty, Chief Court of Oudh, at Lucknow: 'In many cases the advent of the menses is concealed by the mother because the girl is really a child of nine or ten years, and for a year or two perhaps the mother is successful in concealing the puberty of her child.'

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be credited the successful defence of the Bengali's domestic privilege against all assaults of time and change. To him must be paid the lion's honours when two high officials of the Bengal Social Reform League* testify that, during the last forty years, pre-puberty consummation has known no check in Bengal. To him must be ascribed the palm when the Hindu president of a Bar Association† can still assure his enquiring compatriots that any attempt to fix, by law, a minimum marriage age for girls, 'will be opposed by all communities, castes and classes'; that 'after marriage husband and wife as of necessity must live together,' and that 'in sexual intercourse . . . the capacity of the wife is the sole criterion without any reference to her age.'

All sorts of variations upon the theme run through the testimony. Local and caste differences appear. The small intelligentsia class records its aspirations for advance, only to be told that none but 'English-returned' or the English-educated share its unnatural views. Men affirm that seventy-five per cent, that

* *Ibid.*, vi, p. 52, Acharya Muralidhar Banerjee, President, and Mr. Dvijendra Nath Dutt, Secretary, Bengal Social Reform League, Calcutta.

† *Ibid.*, p. 457, Babu Dina Nath Choudhury, B.L., President, Bar Association, Mymensingh.

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eighty-eight per cent, that ninety per cent, of all Bengali marriages are consummated before the bride's puberty.

Or, again, wholly on the contrary, we have the assurance of two Hindus, obviously in training for a lecture tour in America, respectively declaring, the one* that 'practically speaking there is no child-marriage in India. Girls are married at the age of ten to eleven years and the second marriage ceremony [*gaona*] takes place when they are fully grown up;' and the other† that 'in Bengal . . . girls are not married generally before they attain their fifteenth year.'

All these variations, all these contradictions, would indeed perplex the Western reader, were it not for his constant recourse to the judgment of the Committee, before whom, in person, the whole mass of testimony was piled up. Indians themselves, and long accustomed, as members of the Indian Bench and Bar, to estimating the relative reliability

* *Ibid.*, p. 332, Mr. D. L. Sharma, Secretary, All-India Varnashram Sangh, Calcutta.

† *Ibid.*, p. 275, Mr. Baidyanauth Sanyal, B.L., President, Bar Association, Bogra.

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of Indian witnesses, their conclusions are of saving value.

That in drafting these conclusions the Age of Consent Committee should observe the utmost moderation of statement was a course necessitated by the delicacy of its business. That it painted, in its *Report*, a picture deliberately brighter than its subject, one of its members frankly confessed* on the floor of the Legislature to which the *Report* was addressed. Yet, as to its test province, Bengal, the Committee could find no escape from reporting thus grimly:†

‘ . . . Nowhere, except perhaps in the Central Provinces and Berar and in Bihar and Orissa, which once formed part of the Province of Bengal, have we come across a Province where practice of early marriage is so widely prevalent. Nor does the state of evidence in Bengal show that there has been any appreciable improvement, except amongst the few educated classes, since 1891, when the law was first amended. . . . Witnesses may praise or condemn the system and may refer to the advantages accruing

* *Legislative Assembly Debates*, Sept. 5th, 1929, p. 374.

† *Report*, pp. 65, 67–8. See also *Evidence*, vi, p. 138, M. C. Ghosh, Secretary to Government of Bengal, Judicial Department.

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from it, but the fundamental fact is undeniable, nor is it questioned, that early consummation almost inevitably follows early marriage . . . It is also established from the evidence that pre-puberty consummations are common . . . The practice of *gaona*, according to which the girl-wife is not sent to the husband's family till some time after marriage and generally after puberty, does not prevail in Bengal, with the result that soon after marriage, at any age, the girl lives with her husband and consummation invariably follows an attainment of puberty irrespective of the age of the girl.'

The area of the Province of Bengal is about that of Ohio and Indiana combined. Its total population, the largest of any Province in India, approximates 47,000,000, of whom almost half, and that the dominant half, are Hindus. Bengal is the heart and home of Indian political stir. It is the centre of modern thought and the seat of Calcutta University. Its seaport and capital city is one of India's two chief import and export trade foci – one of her two great points of contact with the outer world, west or east. For these reasons, as well as for that given at the beginning of this chapter, the position of Bengal,

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in point of social status, has seemed to demand first attention.

From Bengal one may naturally turn to Bombay, a larger Province with a lesser population, but possessing the same trade and traffic contacts through her great port and city, and entertaining in residence almost all of India's Parsees – a prosperous banking and trading people, relatively high in education of both sexes, late-marrying, liberal of view, and, although numbering only about 100,000, exerting a distinctly progressive influence upon their neighbours.

Of Bombay Presidency, the Committee says:*

'Broadly speaking, the practice of early marriage prevails in the rural areas and among the uneducated classes, and is gradually disappearing from among the educated classes. It is practically non-existent among Parsees and Christians . . . Actual consummation is usually postponed till puberty.'

But, in considering these findings, we need certain side-lights: as that, according to the latest Census, the Hindu population of Bombay Presidency is 94.4 per cent totally illiterate, and that, in certain of the Presidency's large geographical sections, as

* *Report*, pp. 36-7.

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Gujerat, and amongst certain of its most important population segments, as the rich Marwari* merchant class, consummated infant marriage still rules uncontested and in extremest form.

As to the Province of Madras, the Committee expects surprise to greet its citation of census figures representing only about a quarter, or approximately 5,000,000, of the Madrassi Hindu girls as married earlier than the age of fifteen. For this condition it is inclined to thank that ancient folk, the Dravidians, who inhabited the land in past ages before the Brahmins and their fellow Aryans came, and whose influence, it holds, seems still to affect the numerous Tamil peoples.†

The Punjab,‡ also, surprises the Committee, but in the opposite direction. Here census estimates are quoted to the effect that seventy out of every thousand Hindu girls are married before the tenth year – a percentage higher than might have been expected in view of the fact that over fifty-five per cent of the Punjabi population is Muslim, of which a

* Gujerat has always focussed Gandhi's first efforts, in working up his political campaigns. And the rich Marwari merchants have long been known as his financial supporters therein.

† *Report*, p. 53.

‡ *Ibid.*, p. 23.

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considerable segment is of non-Indian descent. But, the Committee believes, the Hindu of the Punjab is affecting the Muslim, rather than the Muslim the Hindu; with the result that, on the average, 'there has been no tangible improvement during the last two decades, but, rather, a tendency to backsliding.'

It is, in fact, only in the North West Frontier Province, where Hindu as to Muslim is as seven to one hundred, that the Hindu master-passion has given ground.

In that narrow barrier-strip bordering on the wild tribal territories, facing Afghanistan, and holding the passes to the north, the fighting Muslim has always ruled, while the Hindu has ever been the subservient trader-intruder, endured grudgingly, contemptuously, on sufferance rather than by right. Here in 1921 only eleven Hindu girls to the thousand, between the ages of five and ten, were found to be in the married state. 'The influence of the practices of the large Muslim population and the constant example of [Muslim] tribal customs across the border have both,' says the Committee, 'tended to bring about this result.'*

* *Ibid*, p 30

CHAPTER VIII

‘YOU CAN’T STOP IT’

FEW persons who have followed the Hindu’s presentation of his social case to the American public can have missed his repeated assertion that effective Hindu child-marriage is practically non-existent; that what we have understood as Hindu marriage is, in reality, only a betrothal; that the Hindu child-wife is protected from premature consummation by a second and obligatory religious ceremony, known as *gaona* or *garbhadhan*; that this second ceremony is deferred for a period of years after the first; that pending its performance the child-wife remains in her own father’s house, and consummation cannot take place.

Now the Committee from the first made these points a subject of special enquiry.

Item 8, of the Committee’s Questionnaire, as submitted to British India, reads:

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‘Is “Gaona” or “Garbhadhan” ceremony usually performed in your part of the country? If so, does it coincide with or is it anterior to the consummation of marriage? Is it performed generally after the attainment of puberty and how soon after it?’

Having duly received and digested Hindu India’s replies, the Committee reports:*

‘The practice of “Gaona,” or “Garbhadhan” or similar consummation ceremonies does not obtain throughout India, and wherever it existed once it is fast dying out.’

The written testimony of the Hindu lady principal of Bethune College, Calcutta, reads:†

‘This ceremony has practically disappeared among the higher and educated classes of the community. I believe it exists in the villages and among the lower classes . . . It generally coincides with the attainment of puberty but the consummation of marriage takes place generally much earlier.’

The Bar Library (Bar Association) of the High Court of Calcutta submits this reply:‡

‘These ceremonies [*gaona*, *garbhadhan*, etc.] are

* *Report*, p. 177.

† *Evidence*, vi, p. 124, Shrimati Rajkumari Das.

‡ *Ibid.*, vi, p. 92.

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not known in Bengal under their names. The nearest approach we have to them is the ceremony called “second marriage” when the attainment of puberty or conception [is] celebrated by games such as those used at the time of Holi.* The ceremony is performed wherever the child may be when the event occurs, i.e., whether in her own home or in her father-in-law’s home.

‘If she is in her father-in-law’s home when the ceremony is performed and if the family is illiterate and orthodox, the chances are that the marriage has been consummated.’ At which point it is well once more to recall that (a) some 92.5 per cent of the Hindu peoples are totally illiterate in any and all tongues;† and (b) that the vast majority of the Hindu people are orthodox.

* *Holi* is the great three-day Brahmin religious festival, occurring in February-March, the fifth month of the Brahmin’s year. Its observance is characterized by a general playing of games, shouting abroad and singing of songs, all of an obscenity too extreme to permit description. See *Rites of the Twice-born* by Mrs. Sinclair Stevenson (Humphrey Milford, Oxford University Press, 1920), pp. 280-7. See also *Evidence*, vii, p. 45, testimony of Pundit Ananta Misra, Sanskrit lecturer, Sanskrit College, Muzaffarpur: ‘Garbadhan, though enjoined by the Sastras as one of the ten necessary Sanskras (purifications) for Brahmans, but being obscene in its nature, has now died out of the Maithil Brama Society [the witness’s own sub-caste] where it was formerly practised.’

† *Census of 1921*, pp. 181-7.

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Many are the witnesses who testify particularly on the prevalence and efficacy of *gaona* and other ceremonies following at an interval after 'betrothal,' and attending whose performance consummation is said to be deferred. Amongst them appears the sister-in-law of Mrs. Sarojini Naidu,* to contribute her statement that although the ceremony of *garbhadhan* is performed in her Province of Madras, 'I do not think it really prevents married people from coming together. I know it from personal experience.'

'You say Brahmin boys very frequently pay visits to the brides residing at their father's houses. Do you mean to say that consummation of marriage takes place in such cases, and does it take place amongst them before puberty?'† The Committee urges this question upon a faculty member of a Sanskrit college.

'Yes,' the Brahmin replies, for the second time. And again, speaking for the Brahmin, 'Gaona may

* *Evidence*, iv, p. 18, Mrs. Kamaladevi Chattopadhyaya, Organizing Secretary, All-India Women's Conference of Educational Reform, Bangalore. See Appendix II, for her testimony at length.

† *Ibid.*, vii, pp. 48, 45, 49-50, Pundit Ananta Misra, M.A., Mythila Shrotri Brahmin, lecturer in Sanskrit College, Muzaffarpur. See also p. 1, Kumar Ganganand Sinha, M.L.A., in confirmation.

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be performed even before the girls attain puberty,’ adding that fifty per cent of Brahmin marriages result in pre-puberty consummation.

Rai Bahadur Dr. S. K. Mukherji, of the Executive Committee of the Allahabad Maternity and Child Welfare League, long in medical practice and author of a book called *Care of Indian Children*, gives us his word that within the scope of his knowledge:* ‘Gaona has become obsolete as well as ineffective for this reason, that nobody cares for it.’

A branch president of the Arya Samaj† is one of those who draw a sharp line betwixt *garbhadhan* and *gaona*. The first, being for the ‘procreation of children,’ is, he says, ‘a very sublime Sanskar [purification rite] and is unfortunately very little in vogue these days.’ The second, he continues, ‘in some communities means some check upon the consummation of marriage. . . . In other communities this is only a formality which is completed along with marriage or very soon after it.’

* *Ibid.*, viii, p. 209.

† *Ibid.*, ix, p. 43, Puran Chand, Advocate, President of the Arya Samaj, Agra. The Arya Samaj is a Hindu Association, mainly concerned to prevent conversions to Christianity and to Islam.

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A Hindu woman witness* from Lucknow affirms:

‘Amongst the higher classes generally the gaona ceremony is performed on the next day after the marriage, to avoid a repetition of the ceremonies later on so that the girl may be sent to her husband’s house whenever occasion arises.’

‘Gaona has become mostly a ceremonial affair and does not protect the girl,’ is the statement signed and submitted by Senior Rani of Pertabgarh in Oudh.†

And these last two testimonies are the more easily understood when one recalls the popularly recognized property rights of the Hindu husband, with their corollary as now expressed in the joint dictum of several Hindu doctors of divine law:‡

‘In no community whatsoever does the question of puberty arise when a husband demands “Gaona” [consummation] of his wife, from her guardian.’

The Committee had phrased its dictum (page 72, *ante*) with the utmost moderation. But it is

* *Evidence* ix, p. 68, Mrs. Mitter, appearing on behalf of the Lucknow Women’s Association.

† *Ibid.*, p. 398.

‡ *Ibid.*, vii, p. 240, written statement of Professors of Sanskrit Shastras. Pundit Dayanand Jha, Ramakanta Jha, Mahmohopadhya Sashi Nath Jha, and others, Muzaffarpur.

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interesting to surprise its Hindu lady member, Mrs. Brijlal Nehru, midway in an unguarded expression of opinion.

It was near the end of the long All-India tour. The Committee was sitting in Nagpur, in the Central Provinces, and at the moment was listening to the testimony of a Brahmin politician. The witness opposes any legislative attempt to change Hindu social customs and particularly frowns upon legislative interference to raise the marriage age of girls. Says he, forgetful that he addresses an audience familiar with the facts:* ‘I consider that [child-marriage] is one of the matters in which improvement is being made very fast.’ And he hazards the statement that in five or ten years the Hindu marriage practice will, by natural progress, equal the proposed law’s desire.

Mrs. Brijlal Nehru then speaks out her mind:†

‘You might have read in the census report . . . that after all these years of propaganda hardly any change has been observed. . . . Leaving alone the

* *Ibid.*, iii, p. 609, B. G. Khaparde, B.A., LL.B., Member Legislative Council, Amraoti.

† *Ibid.*, p. 609, hearing of January 25th, 1929.

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Central Provinces [whose record is among the worst]* if we consider other provinces, we will find that nearly everywhere, amongst eighty per cent of the people, early marriage is still practised and even pre-puberty consummation is practised.'

But the swiftest thrust fell from the lips of another Hindu lady – the Dowager Rani of Mandi. The Committee had asked her:† 'Can you suggest any remedy by which we may permit marriages at any age, even before puberty, and stop maternity definitely before sixteen?'

Her Highness replied in thirteen straight words:

'There is no method. Once the girl is married you can't stop it.'

* See *ante*, Chap. vii, p. 102.

† *Evidence*, ix, p. 201, the Dowager Rani Lalit Kumari, Saheba of Mandi State. Lately President of the Women's Conference at Patna. Statement at Lucknow, January 21st, 1929.

CHAPTER IX

‘IMMEDIATE MURDER’

‘You can’t stop it,’ the Rani said.

They have not stopped it. Whether in seventy years of theoretical intention they have even diminished its sum total remains, at best, in doubt.*

So each generation, as has elsewhere been said, sees the death, in the agonies of childbirth, of 3,200,000 Indian mothers – a figure greater than that of the united death roll of America, the British Empire including India, France, Belgium, and Italy in the World War.†

Before going into local testimonies elaborating this point, it seems desirable to present the opinion of the Age of Consent Committee, built on the evidence as finally in hand:‡

*Cf. *ante*, p. 86.

† This is practically a quotation from *Mother India*, p. 44. Enquiry subsequent to that writing tends to suggest that the above figure of maternal deaths in childbirth may be even too low. Cf. Miss Eleanor Rathbone, M.P., *Memorandum on the Problems of Child Marriage and Maternal Mortality in India*, London, 1930, p. 16.

‡ *Report*, p. 102.

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‘ . . . Early maternity is an evil and an evil of great magnitude. It contributes very largely to maternal and infantile mortality, in many cases wrecks the physical system of the girl and generally leads to degeneracy in the physique of the race. Let us compare the case of Sati, [suttee] which was prevented by legislation, with the case of early maternity. Satis were few and far between. They compelled attention by the enormity of the evil in individual cases, by the intense agony of the burning widow and the terrible shock they gave to humane feelings, But after all, they were cases only of individual suffering; the agony ended with the martyr and the incident had some compensation in the martyr being almost deified as an ideal Hindu . . . a devoted wife. . . . In the case of early maternity, however, the evil . . . is so extensive as to affect the whole framework of society. After going through the ordeal, if a woman survives to the age of thirty, she is in many cases an old woman, almost a shadow of her former self. Her life is a long lingering misery and she is a sacrifice on the altar of custom. The evil is so insidious in all the manifold aspects of social life that people have ceased to think of the

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shocking effects on the entire social fabric. In the case of Sati, the utter hideousness of the incident shocked the conscience; in this case the familiarity of the evil blinds us to its ghastly results.’

This is the opinion, deliberately framed and unanimously signed after months of special study, of a committee of responsible Indians chosen from all over India, trained at the country’s bench and bar and in public life.

In view of a pronouncement so grave, in view of the India-wide scope of the evidence upon which it rests, the student is confronted with this question:

What grounds can be advanced, in support of their assurance, by those Hindus and others who declare to America and the Western world that effective child-marriage in India is dying out, or is practically non-existent there? For the conditions above described do not sound like the effects of mere betrothal – of a verbal pledge devoid of a physical side; nor does the Indian Committee’s description fit minor or local phenomena.

What can the defender of Hindu marriage customs say in reply to this? His only answer seems to be:

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Marriage whose consummation is delayed until puberty is not, in fact, child-marriage. Girl-children, immediately upon the appearance of menses, no matter at what age this may occur, cease to be children and become women fit for the burden of child-bearing. And this view, indeed, is that of the orthodox Hindu in India.

When the Age of Consent Committee asked Mr. Charu Chandra Mitra,* attorney-at-law, Calcutta: 'Do you think that a girl is fit for cohabitation between the ages of eight and ten?' Mr. Mitra replied: 'Yes, if they have attained puberty before that age.'

'Physiological maturity for cohabitation need not correspond to physiological maturity for maternity,' asserts a group of ranking Hindu medical men, submitting their joint signed opinion in support of consummation at first menses.†

And, lest even this statement be found too limiting, one of the medical men just quoted, himself professor

* *Evidence*, vi, pp. 29-30.

† *Ibid.*, p. 141, Dr. J. N. Maitra, M.B., late Member Legislative Council, Bengal; Dr. J. C. Chatterjea, L.M.S., F.R.S.M. (London), Superintendent and Teacher of Midwifery, Calcutta Medical School; Dr. Ekendra Nath Ghosh, M.D., Professor of Biology, Calcutta Medical College; Dr. Nanilal Pan, M.B., Professor of Anatomy, Calcutta Medical College; Dr. S. K. Sen Gupta, B.A., L.M.S., and others.

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of midwifery in the Calcutta Medical School and holder of a London degree, adds a safe-guarding statement.

‘Anything which is physiologically possible – there is no harm in that.’*

But the Committee itself will have none of the orthodox Hindu contention that the onset of menses is in itself proof of a girl-child’s fitness for sexual use. The Committee’s words are these:†

‘Menstruation is not a sign of bodily maturity. . . . It is not an indication of fitness for conception; . . . What man would expect a boy of fourteen to do a full day’s hard labour simply because his voice had cracked? And yet, cracking of the voice is one of the indications, in boys, of the onset of puberty. Why should women, the weaker sex, be exposed at a tender age to the strain, not of one day’s hard labour from which one might rest the next day, but to the nine months’ strain of the growth of a foreign body inside them, followed by the intense exertion of labour, which even in the easiest case throws a great strain on the heart and kidneys?’

* *Evidence*, vi, p. 153, Dr. J. C. Chatterjee.

† *Report*, p. 160.

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And out of the mouths of many witnesses comes the suggestion that very early consummation, with its resulting wounds, injuries, and congestions, in itself operates to defeat its own ostensible object – i.e., the earliest possible birth of the hoped-for son.

Says the District Judge of Moradabad, a Hindu:*

‘I can cite the case of my own daughter . . . injured . . . so she could not conceive for some time to come.’

The South Indian Liberal Federation testifies† in the same sense, on the sometimes destructive consequences of early consummation: ‘Sterility is one of such evils, another is the displacement of the womb resulting in constant abortions.’‡

And the same group of Calcutta physicians just quoted (page 118, *ante*) remark, of early

* *Evidence*, ix, p. 329. Raghunath Prasad. Readers requiring further specific instances and more explicit detail on this point will find such in v, p. 298; iv, p. 318; and elsewhere through the volumes behind the *Report*.

† *Evidence*, iv, p. 286, non-Brahmin and self-help organization of some fifteen years’ existence. See also *Evidence*, iii, p. 450, testimony of Rao Saheb Julabchand Hiralal, a Marwari of Dhulia, Bombay.

‡ Cf. statement of Dr. Muthulakshmi Reddi, woman surgeon, publicist, and Vice-President of the Madras Legislative Council, given in Harry H. Field’s *After Mother India* (London, Jonathan Cape, 1929), p. 136. See also *Evidence*, 1, pp. 232–3, and v, p. 298.

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consummation, that ‘strange to say, the girls generally do not become mothers before they are fifteen or sixteen years old; whereas . . . if a girl is married at fifteen, she generally becomes a mother one year or eighteen months after marriage.’

But that such frustration is not inclusive there is ample evidence. The Organizing Secretary of the All-India Women’s Conference for Educational Reforms* gives Professors Pherwani and Thidani as authority† for the statement that, out of 2,000 recorded maternity cases, the average age of motherhood was thirteen; but that first pregnancy in ‘a number of cases’ ‘is very much below 13,’ citing cases of actual motherhood at nine or ten years.

A highly experienced Hindu witness, herself a worker on the survey that she quotes, testifies:‡

‘The Baroda Fertility inquiry of 1921 . . . found that out of over 28,000 cases of completed marriage whose particulars were studied, nearly 22,500, or eighty per cent, were cases of women

* *Evidence*, ii, p.p 82-3. Miss Khemchand, Organizing Secretary for the Sind.

† The figures here given are attributed to Sind.

‡ *Evidence*, ii, p. 350, Mrs. Aruna Devi Mukerjee, wife of the Chief Census Officer of Baroda.

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whose first children were born when they were twelve or thirteen years of age.'

'Cases are not uncommon in which girls bring forth six or seven children before they attain their eighteenth year,' declares another witness,* in support of whom many might be cited from the Age of Consent Committee's Evidence.

Mr. Partap Sinha, Superintendent of the Medical Department of the Hindu University at Benares, states that,† out of thousands of maternity cases observed annually, he finds many first motherhoods occurring at the age of eleven or twelve, while some forty per cent occur between the ages of twelve and thirteen.

'No case of pregnancy at an earlier age than eight or nine has been recorded,' says a Government of India Statement of 1924, reproduced in the Report of the Age of Consent Committee.‡

But in estimating the value of all such statements, it is essential never to lose sight of three facts: First, that age amongst Hindus and especially in the case of

* *Ibid* , iv, p. 510, Rao Sahab B. Papaiyya Chetty, Madras. See also *Evidence*, vi, p. 40.

† *Ibid.*, viii, p. 23.

‡ *Report*, p. 336.

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girls, goes by guess-work; second, that the reckoning is probably from conception; third, that stillbirths, like miscarriages, are not recorded; and that, regardless of how many such ordeals a girl may experience before her first bearing of a living child, no account is taken of them in the compilation of statistics.

Says a high Indian medical authority:*

‘The number of deaths reported annually among infants under one year of age in the whole of India is about two million. This does not include the children probably equal in number who are still-born.’

‘First motherhood,’ then, means merely first bearing of a living child. And because of this habitual ignoring of a factor vitally related to the girl’s physical condition – because, indeed, of the habitual ignoring of all three factors just cited, many a table of ‘first motherhood’ cases compiled by Europeans and Indians alike conveys a misleading impression.

Yet, whatever else may not be sure, out of all vagueness looms one certainty: The average Hindu

* *Evidence*, iv, p. 1, the Hon. Dr. U. Rama Rao, Member of the Council of State, Madras, thirty years a practising physician.

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girl, entirely regardless of age, will attain motherhood at the earliest possible moment at which her body, in view of the experiences to which it is subjected, can bring forth a child.

This, according to the Hindu priest, according to the orthodox Brahmin and his vast body of imitators, according to some Hindu medical men, is in harmony with nature, is harmless, is even beneficent; is indeed a thing to fight for; cannot be called child-motherhood; in a word, chimes with the wisdom of the sages and the will of the gods on high.

Yet, according to the Hon. Mr. Justice E. M. Nanavutty,* who has objectively considered the same phenomena during a long professional experience:

‘Early consummation of marriage and early maternity . . . make for the early death of the mother and child with the silence and depth of a strong tide at night.’

‘A regular process of immediate murder,’ is

* *Ibid.*, ix, p. 245, Judge of the Chief Court of Oudh, Lucknow. Other contributing causes adduced by Mr. Justice Nanavutty are: ‘Want of hygiene and sanitation in most Indian homes, constitutional weakness of the girl-wife, her ignorance in matters of health, and the custom of the . . . barber women [midwife] cutting the umbilical cord of the child with a dirty, unclean khurpi (generally used for cutting grass) or an old razor.’

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the phrase of Mr. Jamnadas Mehta, of Bombay,* characterizing the modern Hindu's dealings with his young wife. And when the Committee suggests that Mr. Mehta somehow transfer some responsibility from the man to the man's economic condition – to his poverty – Mr. Mehta will have none of that.

‘There are no economic reasons,’ he retorts bluntly, and persists that the custom he condemns is common to all classes, including ‘bungalow and motor-car owners,’ for ‘there is no social opinion against it.’

And so, by the early death of the child-mothers, the child-marriage system works to perpetuate itself. For the bereaved husband must have another wife. To marry a widow, though permissible by law, is as yet little approved by custom. And Hindu girls are early wed.

Therefore the Hindu widower, no matter what his own age, has an excuse approaching necessity, each time he re-marries, to marry a child.

Consequently, a large proportion of Hindu girl-children are married in childhood to men aged

* *Ibid.*, iii, pp. 82, 77, Member Bombay Legislative Assembly, Member Bombay Corporation.

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upward of thirty and forty years. This proportion, differing in different communities, is variously estimated at from fifteen to fifty per cent.*

Questioning an Ahmedabad medical man, one of the Age of Consent Committee asked:†

‘I understand you to say that fifty per cent of the males have second marriages. Is that in your community?’

‘Everywhere in this city,’ replied the witness. And ‘that is because our girls die from early motherhood.’

But the evidence in general tends to show that, of young children married to men thrice their age or older, death intervenes as often from sheer destruction‡ as from motherhood.

‘There are many people in my community,’ a Bombay merchant testifies§ frankly, ‘who have had two, three, four and even five marriages, one after another. The age of the girl is generally

* *Ibid.*, iv, p. 105, Mrs. Malati Patwardhan, Hon. Gen. Secretary Women's Indian Association, Adyar, Madras. *Evidence*, ii, p. 197, Dr. Manilal H. Bhagat, L.M. and S., and Vice-President Ahmedabad Medical Society, *et al.*

† *Ibid.*, ii, p. 203, Dr. Manilal H. Bhagat.

‡ See Appendix I.

§ *Ibid.*, iii, p. 449, Rao Saheb Gulabchand Hiralal.

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twelve . . . Two of my wives have died on account of early marriage and early consummation.’

‘When the husband is aged, and the wife is the second, third, fourth or fifth wife,’ a Madrassi witness affirms,* ‘the sixteen-day rule is most commonly applied; for a day’s delay, for the old man, is a day’s advance in age.’

Judge Kadri,† member of the Age of Consent Committee, contributes to the record this instance, from his own experience on the bench:

‘I, myself, tried a case . . . [of] a Brahmin of thirty or thirty-five who married a girl of ten or eleven years . . . the girl was being ill-treated from day to day. The result was she was a complete wreck and when she came to the court she could not walk. The husband said “I have paid 500 rupees for the girl‡ and I must have the money’s worth.” He was an enlightened Deccani Brahmin and was a police patel [head man] and knew English.’

* *Ibid.*, iv, p. 534, M. R. Ry. Rai Sahib G. Sankara Rao Garu, Cuddapah, Madras. ‘The sixteen-day rule’ means the religious rule commanding consummation sixteen days from first menses.

† *Ibid.*, ii, p. 218.

‡ Whether the dowry is paid by the father of the bride or the groom pays a price to the father of the bride is a matter dependent upon the circumstances of the case.

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Excepting in isolated cases, the man of thirty or forty, re-marrying, marries a girl not over thirteen, and immediately consummates the marriage – so asserts the Secretary of the Hindu Association of Ajmer.*

But Hindus of really advanced age are described as desiring wives of less than thirteen years, partly from racial idiosyncrasy, partly because of the enduring belief that such physical relations exercise a rejuvenating influence.† Hindu widowers of fifty, remarrying, ‘go in for a girl and pay money and get a girl of 10,’ consummating at once.‡ And one of the main uses of riches, so witnesses continue to explain,§ is to enable the possessor to indulge in infant wives.

* *Evidence*, ix, p. 442 *et seq.*, Kunwar Chand Karan Sarda. Cf. *Evidence*, vi, p. 41. See testimony of Dr. (Mrs.) Edith Ghosh, private medical practitioner in Calcutta, representing Bengal Presidency Council of Women, who cites from her own practice the case of ‘a girl of thirteen married to a man of seventy-five’ who ‘had already had two or three wives.’ She, like her predecessors, ‘died shortly after marriage.’ ‘The man was ‘a very rich man and very well known in Calcutta.’

† *Ibid.*, viii, p. 293, Rai Bahadur Lala Sita Ram, B.A., M.R.A.S., Allahabad City.

‡ *Ibid.*, ii, pp. 57–8, Virumal Begraj, editor *The Sindhi*, Sukkur, and representative of the Hindu Panchayat.

§ *Ibid.*, iii, p. 152. ‘The richer the community the more frequent these cases.’ Dr. Jadavji Hansraj, President Bhatia Mitra Mandal, Bombay.

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‘I have seen,’ says the District Judge of Moradabad, ‘a girl of 6 or 7 or 8 with a man of 30, 35 or even 40.’* And this witness scouts the idea that, in such cases, consummation will await maturity.

Says the President of the Bar Association of Broach:†

‘With the disparity in age, the husband takes the child-wife to his home, under “the make believe” to train her up according to his requirements.’

And the sequel, pursues this witness, delicately, is the better veiled because of ‘the Hindu method of disposing of the dead bodies.’

* *Ibid.*, ix, p. 328, Mr. Raghunath Prasad.

† *Ibid.*, ii, p. 442, Mr. N. V. Desai. The final reference is to the funeral pyre, lighted before sunset on the day of decease, and upon which the body is consumed.

CHAPTER X

THEN HE MARRIED AN ENGLISH LADY

EDUCATION, social importance, rank, office, caste, none of these elements seem to affect the Hindu's obsession; none is strong enough to change the undercurrent of the Hindu mind. Witnesses are found to regret the fact, but few indeed are those who contemplate the possibility of seeing it materially altered.

Meantime, the child-wives are dying.

But death is neither the inevitable, nor, some witnesses say, the worst outcome of such alliances. To select from the *Evidence* a printable illustration of the point,* one may take the following, submitted in writing by a Hindu lady of the new intelligentsia:†

‘Next to my house is a Gaur Brahmin family. . .

* See also Appendix I.

† *Evidence*, ix, p. 190, Mrs. Phulavati Shukla, B.A., Member Standing Committee, All-India Women's Conference, Secretary Oudh Constituent Conference, Lucknow

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They had a girl eleven years of age. She was married to her sister's husband, because her sister did not give birth to a son. So this girl was married to her brother-in-law. The girl had not attained puberty but the cohabitation took place. The husband was fifty-five years of age. When she was fourteen years of age, she gave birth to a son. The son was physically deformed and could not live for more than five days. The baby died and the girl had such a shock that since then she has not kept good health even for a single day. . . . It is the doctor's opinion that now she cannot give birth to any child . . . Most of the girls in this country know only childhood and motherhood.'

As to early consummation in general, a Madrassi professional man* gives his opinion that:

'Invariably, a healthy girl, bright of eye, and cheery and active, after consummation becomes languid and drooping, inert and morbid. If child-birth is added, the misery is unspeakable; wasting diseases are added to the general loss of health. One has [but] to look at the number of girls that are said to be possessed [by evil spirits], to be assured of the

* *Ibid*, IV, p. 501, C. V. Venkayagavai, Advocate, Mysapore

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fact that they are only nervous wrecks, the result of the shocks of sexual strain. A large percentage falls under this class, and I consider it needless to mention individuals. Their number is so large that you can't single out cases; they come across everybody's way. It is unnecessary to dwell upon the kind of progeny resulting from such consummation. The mortality report of children reveals this tale of woe.'

A second Southerner* testifies: 'Girl wives are physical wrecks. They are mothers of three to four children before they are even twenty. As this is the general rule and not an exception, I do not think it necessary to give instances.'

'In cases where the girls had attained puberty but before full physical development,' an Indian lady doctor gives her written word of her own practice in Benares:† 'the first conception has invariably been an abortion or miscarriage followed by a series of such accidents, thus invalidating the girls permanently.'

'Abortion is so very common in the early stages,'

* *Ibid.*, v, p. 92, K. R. Karant, B.A., LL.B., Member Legislative Council, Mangalore.

† *Ibid.*, viii, p. 66, Dr. (Miss) B. Thungamma, F.R.C.S.E., W.M.S., Benares.

THEN HE MARRIED AN ENGLISH LADY asserts a Hindu educator of the North.* 'The effect lasts even when they are fully developed, though they never know youth really. They appear old at twenty-five or thirty, with deep wrinkles on their haggard faces.'

And a Hindu medical man† concurs, to cite 'mothers of about thirteen years becoming wrecks of their former selves . . . strained by their premature wifehood and motherhood, although they are socially rich and in a position to command all comforts . . . falling an easy prey to consumption . . . suffering from various agonizing ailments of the generative system . . . showing acute neuroses due to lack of vitality brought on by wifehood.'

'There is no girlhood at all amongst Brahmins,' laments the Headmistress of the Lady Willingdon Training College.‡

The Deputy President of the Council of the United Provinces, himself a Hindu with an Oxford degree, typifies the bitterness of his class – young

* *Ibid.*, i, p. 414, Tekchand Nangia, B.A., B.L., Headmaster V. B. High School, Dera Ismail Khan.

† *Ibid.*, iv, p. 410, J. Narasimhulu, L.M. and S., Medical Practitioner, Civil Lines, Bellary.

‡ *Ibid.*, ix, p. 111, Sister R. S. Subbalakshmi, F.C.I., F.I.C., Imphicane, Madras.

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English-educated intelligentsia - when he declares:*

‘Ninety per cent of our women are physical wrecks at the age at which European women would be pictures of health. Besides, in stature they are short; physically weak and old looking, because of early marriage and early consummation of marriage.’

And the competence of that well-known Hindu leader in Nationalist political circles, Mr. Amar Nath Datt,† will scarcely be challenged in India when he submits in writing his considered opinion that ‘The general weak health and various female diseases which [are] so common among the Bengali women, is due to cohabitation before full physical development and there is hardly a Bengali home, which is free from it. The instances are too numerous for a detailed description.’

Mrs. Sarojini Naidu’s sister-in-law, Mrs. Kamaladevi Chattopadhyaya,‡ conspicuous figure to-day

* *Ibid.*, ix, p. 169, Mukandi Lal, B.A. (Oxon), barrister-at-law, M.L.C.: ‘The average height of Indian girls is about four and a half feet.’ M. K. Jayakar, Legislative Assembly Debates, September 15th, 1927, p. 4426.

† *Ibid.*, vi, p. 1, Amar Nath Datt, B.A., M.L.A., Advocate, High Court, Calcutta, Member Legislative Assembly, President of the Arya Samaj of Burdwan.

‡ *Ibid.*, iv, pp. 8-21. See Appendix II of this book for Mrs. Chattopadhyaya’s testimony at further length.

THEN HE MARRIED AN ENGLISH LADY in Hindu political life, bears witness from that prominent family's own experience on the consequences, to the Hindu girl-wife, of premature sexual experience.

This lady testifies:

‘Heart disease, tuberculosis, nervous debility, hysteria, are very common among those girls who have been victims of early married life . . . The very foundation . . . is undermined . . . But apart from the physical disorders there have been mental disorders as well . . . I have seen over half a dozen cases where the girls used to shriek at the very sight of the husband. Some have refused to go back to the husband, or, failing every help, [have] committed suicide. This attitude on the part of the girl is rarely understood or sympathised with. She therefore receives no support from anyone. Some try to resist the man and sustain physical injuries at the hands of the husband. I know of one case where the husband used to actually strangle the girl for resisting him and the girl was between twelve and thirteen. Her parents took away the girl but when the husband went to court . . . the law ordered her to go back to the husband.’

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'Was the husband a young man or an elderly man?' asks the Committee, presently.

'He was a young man,' replies Mrs. Chattopadhyaya, and adds: ,

'He has now gone to England and has married an English lady and the girl has been left to herself.'

This particular young man was a Brahmin, the witness further affirms. And she explains:

'Being a Brahmin I come more closely in contact with Brahmins, and my investigation has been confined more or less among people whom I have known intimately. It has therefore been possible for me to know what led to these injuries. Some of them happened in my own family.'

This statement may be compared with that recently made to an American audience by Mrs. Sarojini Naidu herself. As reported in the *San Francisco Chronicle* of January 23rd, 1929, Mrs. Naidu affirmed:

'We have early marriages in India, but as to child marriage in its real sense I doubt if there is any more in India than elsewhere.'

Further light on Mrs. Naidu's relations to the American public will be found in H. H. Field's

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book *After Mother India*, published in London, in
1929.

Next after the child-wife's health, her education suffers, so modern-minded Hindus point out, flying thereby in the teeth of the orthodoxy, which would have no education for women save in the ancient way.

Six ladies of Triplicane, orthodox citadel, thus venture, in response to the Committee's questionnaire:*

'We cannot educate the girl to any decent stage if the girl gets married.'

But they have the full support of a fellow townsman,† who, after recounting his hopeless struggle on behalf of his own daughter, concludes despairingly:

'We cannot breed thoughts and children at the same time.'

A second Madrassi elaborates the idea:‡

'At a time when the girl's mental faculties just begin to develop and at a time when she, just having learned to read and write a few short sentences,

* *Ibid.*, p. 460, Srimathi Srirangammal and five other ladies.

† *Ibid.*, p. 402, M. A. Srinivasa Iyengar, B.A., B.L.

‡ *Evidence*, iv, p. 510, Rao Saheb B. Sapaaiyya Chetty, Madras.

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begins to use her literacy to learn something really useful, the consummation of marriage comes in and puts an end to the progress of her intellectual development. She is snatched away from her school-mistress and suddenly put into the worries and turmoils of family life before she is fit to bear the strain thereof, both physical and mental. Except for a few months of ecstasy of love and conjugal relations with her husband, for the rest of her life, which is in many cases short, she is thrown into misery.'

And the Hindu editor-in-chief of a prominent Calcutta newspaper* contributes his opinion that due education of girls demands postponement of the current age of maternity, since in most of Calcutta's girls' schools 'the upper classes are empty' because of wholesale summoning of child-wives to their husbands' service.

Now, as to the effect of immature motherhood upon the life-hold of offspring:

This time specifically excluding from its reckoning the unnumbered multitudes of stillborn [cf. page 123 *ante*] children, the latest Census shows that, in

* *Evidence*, vi, p 181, M. K. Bose, of the *Amrita Bazar Patrika*.

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British India, of Indian babies born alive, some
2,000,000 each year die; that over forty per cent of
such infant deaths occur in the first week after birth,
and over sixty per cent in the first month thereafter.*

‘Why is infant mortality higher among Hindus
than among other classes?’ the Committee enquired
of Dr. Sethna, health officer of Delhi.†

‘The first cause,’ the doctor replied, ‘is early
marriage. The second is premature births. Thirdly
girls have not got the vitality to fight against nature.
The first child among Hindus almost always dies.’

‘In a large percentage of cases [the child-wife’s]
first born child does not survive,’‡ says a witness
from far away in the North.

‘I have never seen a first born child entering
into its second or third year of life,’ a Gujarati
agrees.§

‘I have not known a single case in which the
child has lived. Either there was a still-born child
or there was no delivery or the child died,’

* *Census of India*, 1921, Vol. i, Part i, p. 132. See, for local and world
comparisons, table in Harry H. Field’s *After Mother India*, p. 213.

† *Evidence*, i, p. 439.

‡ *Ibid.*, p. 414, Tekchand Nangia, B.A., B.T., Dera Ismail Khan.

§ *Ibid.*, ii, p. 490, N. U. Joshi, Dakor.

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declares Assemblyman Amar Nath Datt, from Bengal.*

Dr. Muthulakshmi Reddi, of Madras,† it is to be noted with respect, records a differing experience. She has commonly found the first child of mothers of thirteen to be sound at birth, although presently developing infections, with cirrhosis of the liver.

And a West Coast medical man‡ puts his name to the statement that 'the younger and weaker the mother the stronger are the children.'

But Dr. Jadavji Hansraj, of Bombay,§ describes in simple terms the heavy call upon the mother's weak and undeveloped body involved in pregnancy and maternity; the starving of the fœtus because the mother is herself too overtaxed to supply the needed elements; the consequent weakness and deficiencies of the child at birth; the inability of the mother, exhausted as she is in the effort, to supply her baby with milk, and the diseases that she

* *Ibid.*, vi, p. 4.

† *Ibid.*, iv, p. 366.

‡ *Ibid.*, iii, p. 221, Dr. Mangaldas Mehta of the Nowrojee Wadia Maternity Hospital, Bombay.

§ *Ibid.*, p. 150, Dr. Jadavji Hansraj, D.O.M.S. (England), J.P., President Bhatia Mitra Mandal, Bombay.

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‘The result of all these circumstances is high death rate among the girls during or after delivery and among the new born in the first few months of life. On the other hand, if the mother is fortunate to recover . . . she becomes a life long wreck or invalid. The baby . . . if saved adds one more number to make a nation of weaklings and dwarfs, ailing and effeminate.’

The Age of Consent Committee ends its summary of ‘the enormous total loss of infant life under one year’ in these words:*

‘Wherever there is a very high infant death rate, a great number of children, male and female, who do survive are likely to be weaklings, and if such girls are to be further handicapped by early marriage before their own weak bodies have properly developed, what must be the inevitable effect on succeeding generations?’

* *Report*, p. 164. In 1926 Calcutta’s infant mortality was 372 per thousand, Ahmedabad’s was 438, and that of Poona 733 per thousand against New York’s 69.

CHAPTER XI

WHAT HAS IT DONE TO THEM?

‘AMONG the factors responsible for a general deterioration of an individual or a community, *early sexual intercourse comes quite close to habitual starving or underfeeding.*’

This statement, with its italics, occurs in the written testimony of Dr. Bihari Lal Dhingra* of Simla. And it strikes straight upon the ultimate point to which the Committee’s whole work was addressed.

Consummated child-marriage having been shown as widely prevalent, child-motherhood having been shown as checked by nothing save physical impossibility, what has been the effect of this habit of life upon peoples who, through centuries, have practised it?

* *Evidence*, i, p. 209.

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The habit that their own natures have evolved, is it possibly, for them, a wholesome habit? Or should there be, in their interest, some effort for change?

The Committee asked the peoples. The peoples, through their spokesmen, answered simply, frankly, without reserve. For they were speaking to each other of familiar and accepted things, taking no thought of the outer world, its praise or blame.

They themselves shall give their own verdict here, as it fell from their own tongues, and pens.

Says Mr. K. C. Roy,* Member of the Legislative Assembly:

‘Physical deterioration of the people of India as a whole can hardly be denied. The practice of early marriage, of early consummation of marriage and of early child-bearing is common among the people. From the medical, the physiological, and the economic points of view, these are vicious practices. . . . An advance on the present law is therefore necessary to save the nation from continued national deterioration and to improve the social and economic position of Indian nationhood.’

* *Ibid.*, p. 183.

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Swami Ramanand Sanyasi,* of Delhi, writes:

‘Early consummation of marriage and maternity . . . has vitally affected the intellectual and physical well-being of the people. . . . In Bengal, Bihar, United Provinces, and other parts of the country where infant marriage is generally prevalent, there are teeming millions of diminutive type, stupidity on their faces, with little of common sense, or knowledge, and men and women who have become old at an age when they should be at the prime of their life. Physical as well as mental weakness has greatly reduced the efficiency and working capacity of the nation as a whole. . . . A nation born of diminutives is neither capable of standing in the road of foreigners nor can [it] compete successfully with the genius and inventive powers of a fully developed nation born of robust and mature men and women.’

‘Among my students, the cases have been many where sons of early marriages are dull-headed’ – so reports a college professor of Lahore.†

This last idea the Committee picks up to repeat as a question to a second college professor: ‘Are

* *Ibid.*, p. 487.

† *Ibid.*, p. 75, Bhagvad Datt, Superintendent, Research Dept. D A.V. College. *Ibid.*, iv, pp. 394-5, Krishna Reddi, Vellore, Madras.

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the children of child-mothers normal in intelligence?’

The reply runs:*

‘Some of them are as clever as any other boy but that is all neurasthenic activity. They have not healthy bodies and the result is that they are clever at one time and then subside into a subnormal condition.’

Says the Municipal President of the city of Ahmedabad.†

‘The physical deterioration of the people of this country is due to the pernicious practice of premature consummation, and it is high time that those who are charged with the sacred trust of the welfare of the people, should concert early measures to prevent the progressive decline. . . . If any one wants proof of the absolute necessity of an advance on the present law as to the Age of Consent, I say “Circumspice”.’

The President of the Bar Association of Broach‡ hands on this opinion:

‘The baby-born nation the country is building

* *Ibid.*, ii, p. 122, C. A. Buch (Brahmin), Professor of Sanskrit, Karachi.

† *Ibid.*, pp. 442-3, N. V. Desai, LL.B.

‡ *Ibid.*, p. 267, Dolatram U. Shah, B.A., LL.B. (Jain).

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up as a result of early consummation of marriage and early maternity, is in itself a serious handicap on the intellectual and physical progress of the people. The short-sighted boys and girls, youngsters with pigeon-shaped chests and the lot of them representing a miserable specimen of humanity, compared with the powerful men and women they have to compete with in world competition, are only ridiculous gifts to a country. . . .’

The District Judge of Wardha,* Central Provinces, writes:

‘Not only does the practice of early marriage and cohabitation affect the health of the population, it also retards full intellectual development and cripples enterprise and ambition. Men and women marry and have offspring when they themselves have hardly outgrown their childhood. They are neither physically nor intellectually and mentally well equipped to discharge properly the responsibilities of marriage and parenthood. The result is that children do not receive the attention and instruction in the early years of their existence, which is necessary for their full . . . development. The

* *Ibid.*, iii, pp. 716-7, K. B. L. Seth, M.A., LL.B., I.C.S. (Hindu).

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father also, finding himself on the threshold of life faced with the responsibilities of a growing family, is crippled at the outset in his endeavour to chalk out a career for himself, and the result is that more often than not he has to content himself with the first chance that comes along. My belief is that want of initiative and enterprise, and consequent unemployment and overcrowding of the few well-known occupations, [white-collar jobs] which is so unhappy a feature of modern, especially middle-class India, is in a large measure due to this cause.'

The President of a Madras District Board,* gives this judgment.

'In marital life, the pick and flower of society is rapidly degenerating on account of the increase of child-mothers between thirteen and fourteen years of age, with a consequent deterioration of the physical stamina and mental calibre of the intelligentsia of the country.'

Two Brahmin medical men,† representing their caste association, sign the statement that:

* *Ibid.*, iv, p. 422, Rao Bahadur M. Krishnaswami Reddi Garu, B.A., President Chingleput District Board.

† *Ibid.*, iii, p. 89, Dr. J. N. Karande and S. M. Varde, LL.B., for the Saraswat Brahmin Association of Bombay.

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‘It is really too late in the day to deny the fact that high maternal and infantile mortality prevalent in India as well as the low physique and vigour of the people is greatly due to the habit of early consummation and early maternity.’

A Civil Sub-Judge of Kathiawar* affirms in writing:

‘I am strongly of opinion that a very bold and drastic legislation is urgently needed to eradicate cohabitation by husbands with child-wives. . . . The drain on the manhood and womanhood of the country caused by early cohabitation even in marital state is appalling. It is at the root of much of the physical, social, moral, mental and economical bankruptcy in the country.’

Rai Bahadur Dr. S. K. Mukherji, L.M.S.,† renders his view as follows:

‘The precocious stimulation of the immature sexual nerves leads to their irregular action. Early marriage with its attendant and inevitable forcing of sexual life on immature girls often brings about hysteria and a nervous breakdown. The mentality

* *Ibid.*, ii, p. 425, Rao Bahadur H. N. Gosalia, M.A., LL.B.

† *Ibid.*, viii, p. 206, Member of Executive Comimittee, Allahabad Maternity and Child Welfare League.

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of the race suffers from this breakdown and the result is a highly nervous and emotional race of Indian people with no fortitude, no backbone, nor any capacity for sustained effort – early marriage is one cause and a substantial cause, for defective children. The defects are mental, moral and physical.’

Mr. N. C. Mehta, a Hindu member of the Indian Civil Service,* answers the question in these words:

‘Early consummation and early maternity are responsible for the most of the ills of India, and volumes can be written to prove these facts. Briefly they are responsible for the extremely low vitality and stamina and courage of the people, and also for the low position of women, which is a disgrace to any people calling themselves civilised.’

The District Judge of Nadia, Mr. A. N. Sen,† testifies:

‘High maternal and infantile mortality is due to early consummation and early maternity. The progeny of such unions are feeble physically and mentally. This must necessarily react adversely on the general efficiency and well being of the race.’

* *Ibid.*, p 132, Collector and Magistrate, Azamgarh, U P

† *Ibid* , vi, p 320.

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‘Half the girls that die in child birth die of the effects of bearing a child before the pelvis and the other organs, e.g., the womb, are fully mature. . . . The children are sickly, rickety, nerveless, energyless, ambitionless libels on humanity who are fit for nothing either physically or mentally or even morally.’ So testifies another professional man;* and to the question: ‘Do women themselves favour early consummation?’ replies: ‘Poor dumb driven cattle have no voice nor even understanding of things. Probably they do!’

A Bengali sub-divisional officer says:†

‘There is a great deterioration in the health of the children and young men and women of the present generation, due to having unfit mothers, mothers too young to bear children . . . sickly and “old at the age of twenty,” as the Bengali proverb goes. Infant mortality is also mainly due to it. It is not denied by anybody that the health and virility of the Bengali race are getting worse owing to early consummation of marriage.’

* *Ibid.*, viii, pp. 300–1, Champat Rai Jain, Vidya Varidhi, barrister, Allahabad.

† *Ibid.*, vi, p. 350, Babu C. Mukherjee, of Feni.

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An Amritsar lawyer and legislator* writes:

‘The very vitality of the nation is being sapped by the existing practices and if we are to hold our head high among the nations of the world we must put a stop to the state of affairs which leads to physical and therefore mental and moral deterioration of the race.’

Says an official of the Arya Samaj, Hindu organization primarily aimed against the spread of Christianity and of Islam:†

‘Yes, the early consummation and early maternity are solely responsible for the high maternal and infantile mortality and vitally affect the intellectual and physical progress of the people as a most ordinary illustration . . . will show. If we sow an undeveloped seed into an unfit soil, we are sure to reap nothing, [or] . . . a very weak and unwholesome production.’

A Madrassi Hindu,‡ in public life, bears witness that the Hindu ‘ages fast . . . because of this. One is rarely vital enough after forty to be of real

* *Ibid.*, i, p. 259, Lala Kesho Ram Sekhri, Member of Punjab Legislative Council.

† *Ibid.*, ix, p. 283, Mr. Ramchandra Mehrotra, Farrukhabad, U.P.

‡ *Ibid.*, v, p. 302, Rajkumar S. N. Dorai Rajah, Member Legislative Council, Pudukota.

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use to his family or the people. And I believe children born of immature parents are themselves of a very poor quality.'

And a Madrassi lady,* herself of the intelligentsia, adds:

'I have been born and brought up in an orthodox Brahmin family, and I am proud of it. I love the treasures contained in our ancient Vedas, shastras, Upanishads, and Puranas, and have a great respect and reverence for them. . . . But I must confess I am not orthodox in the sense prevailing now in our land. . . . I find at present our country is in danger in every respect. . . . We have lost our political liberty, we have lost our hold on society, we are poverty-stricken, we are physically unfit for anything. . . . Early pregnancy, responsibility of looking after her children at such an early age and too much domestic work, all these combine to spoil the health of the girls. Early consummation certainly affects the physical, economical and the intellectual progress of the people and consequently progress of the country as a whole.'

* *Ibid.*, pp 290-2, Mrs. Kamala Bai R. L. Rao, Magistrate, Tinnevely.

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Another Hindu lady* of the modern intelligentsia writes:

‘Early consummation, which is the necessary outcome of early marriage, is responsible for the high child mortality and the degradation of [the] manhood of India and production of weak and coward children.’

And a third Hindu woman.†

‘The children die and the girls are physically wrecked.’

Now the Deputy Magistrate of Hazaribagh:‡

‘The evil effects of cohabitation by a girl soon after puberty . . . both on her own and on the health of her progeny, are to be seen everywhere, and such cases are too numerous to be mentioned. Instances may be taken from almost every Indian family. The appalling death-rate from tuberculosis in India is also attributed by competent authorities to the early consummation of marriages.’§

* *Ibid.*, vii, p. 199, Raj Devi D. P. Sinha, Secretary, Women’s Educational Association, Muzaffapur.

† *Ibid.*, p. 166, Mrs. N. Senapati, Secretary, Child Welfare Centre, Cuttack.

‡ *Ibid.*, p. 207, Rai Bahabur Muralidhar Ray Chaudhuri, M.A.

§ Medical witnesses agree that tuberculosis, in some regions of India known as ‘confined women’s disease,’ is rampant and increasing; and the

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The secretary of the Oriya Association of Madras* after a frank statement of details, concludes:

‘The high infantile and maternal mortality which is now the scourge of this country is largely, if not exclusively, due to the practice of early consummation. The poor physique of the women generally and that of the younger generations and the want of manly zest and enthusiasm which distinguishes young men . . . of this country from their compeers of the western countries are also in a large measure the result of premature consummation.’

‘Stunted growth of the nation physically and intellectually is due to early marriage,’ declares a Madrassi advocate-at-law.†

‘The entire havoc of infant and female mortality in Bengal is due to immature cohabitation,’ declares a Brahmin lawyer.‡ ‘If any man has a grain of humanity in him, he should come to the rescue of these helpless young girls, who do not know how to

Health Officer of Calcutta, has stated that, of deaths from that malady between the ages of sixteen and twenty, six girls die to one boy.

* *Evidence*, v, p. 369, Sreeman B. S. Ruth, B.A., B.L., Berhampur.

† *Ibid.*, p. 401, M. R. Ry. B. Venkatapati Raju Garu, B.A., B.L., C.I.E., Vizagapatam.

‡ *Evidence*, vi, p. 346, H. N. Bhattacharya, Advocate, High Court of Calcutta, President Sylhet Vaidic Brahmin Samity Dec. 20th, 1928.

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protect themselves against their demoralized husbands, who are lost to all except animality. Cases are too numerous to be cited.'

'Does cohabitation before puberty, or before full physical development, injure mother or child?' was in effect the question that elicited from a Municipal official of Bezwada this reply:*

'Why, it is our daily experience in these parts, almost each [every] Brahmin boy or girl is an illustration of the effect of this pernicious custom. It has mainly contributed toward the degeneracy if not the decay of the nation.'

A Hindu physician, late of the Indian Medical Service sends in this statement:†

'Almost all these girl wives conceive two or three times before they attain the age of sixteen and they have not sufficient strength and vitality in them to stand the great and awful strain of child-birth; some dying during child-birth, some sowing seeds of incipient tuberculosis . . . The children born of these girl-mothers are puny and small in build, with feeble digestive powers . . . The effect on the

* *Ibid.*, v, p. 463, Rai Sahib C. K. Reddi, B.A., Vice-Chairman.

† *Ibid.*, p. 466, Captain (Dr.) P. V. R. Murty, M.B., Cocanada.

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boy husbands of these girls owing to frequent playing . . . with their new toy of a girl-wife and not realising the serious and evil effects it will have on their health in future, is more devitalizing and degenerating. . . . The effects on boys that are chiefly observed by me in my professional capacity are as follows:

‘Indigestion, constipation, physical exhaustion on slight exertion, reduction of manly power or vigour (partial impotency) before they attain the age of twenty to twenty-five years. All these conduce to the reduction of mental and intellectual powers, thereby paving the way to early death. The children born of these boy and girl couples are weaklings and have not sufficient vitality to resist the invasions of even the slightest disease.’

And the Age of Consent Committee, having weighed these opinions plus the hundreds of others – some few dissentient – laid before it, gives judgment of the outcome.*

‘Every succeeding generation of men and women in India realises that it is weaker than any preceding generation.’

* *Report*, p. 159.

CHAPTER XII

PRICE FIFTEEN SHILLINGS

THE Age of Consent Committee had been created to investigate the workings of the Age of Consent Law, as amended in 1925 and now current.* This law deals, not with marriage itself, but with consummation of marriage, forbidding consummation before the wife is thirteen years of age.

Having completed its survey, the Committee reports on the Age of Consent Law:

‘A knowledge of it is confined to judges, lawyers and a few educated men, who may read newspapers or are in touch with the courts of law. The evidence establishes the indisputable fact that the general mass of the people is quite ignorant of the law† . . . The law has simply not touched them.’‡

* The Committee’s terms of reference included also an enquiry into offences committed outside of the marital state – a division of the subject with which this book does not attempt to deal.

† *Report*, p. 18.

‡ *Ibid.*, p. 21.

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Further, the *Report* runs:*

‘In prohibiting marital intercourse where the girl is below a certain age the legislature has penalised the exercise of what is generally considered a legitimate right’ – the husband’s ‘absolute right to cohabit with his wife, irrespective of her age or physical condition, [on assumption that] he is the best and only judge of her fitness and maturity for such cohabitation.’†

‘The Hindu [religious] Law’ – so affirms the Committee – ‘prohibits consummation before puberty.’‡ But, the Committee also asserts,§ . . . ‘it is certain that what counts most with orthodox Hindu society at present is the existence of certain customs. It is an accepted maxim in Hindu law that in a conflict between custom and a Smriti text, custom will prevail . . . The texts are held to be mandatory or permissive to suit existing practices.’||

In this case the great weight of Hindu custom certainly upholds the husband’s ‘absolute right’ to call for his wife when he sees fit. And the sequel belongs so definitely to the realm of inmost domestic

* *Ibid.*, p. 149.

† *Ibid.*, p. 116.

‡ *Ibid.*, p. 116.

§ *Ibid.*, p. 106.

|| *Ibid.*, p. 106

privacy that real control must at all times rest upon general opinion rather than upon law. As the Committee suggests, 'If the girl is under the protection of and resides with the husband, it is . . . almost impossible to detect a breach of the law.'*

'When husband and [child] wife . . . are allowed to come together,' says a member of the Age of Consent Committee in his personal Note,† 'the chances are that the offence will be committed and no heed will be paid to convictions in courts. You may as well ask fire not to burn and air not to dry, as to expect that crime will not be committed under these circumstances.'

Or, as one witness expresses the opinion declared by many:‡

'In the case of husband and wife no one cares for the law. It does not therefore matter, whether the existing law is retained or whether an advance is made. The latter will be as ineffectual as the former is at present.'

The evidence conclusively proves, the Committee

* *Ibid.*, pp. 140-1.

† *Ibid.*, p. 249, Pundit Thakurdas Bhargava.

‡ *Evidence*, iv, p. 533, M. R. Ry. Rai Sahib G. Sankara Rao Garu, Cuddapah, Madras.

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agrees, that any Age of Consent law fixing an age, for the wife, appreciably higher than the age of her marriage, will afford her little or no protection, for 'consummations would go on almost as before without detection.'*

No one, in fact, is found to deny that the Age of Consent Law was born dead. 'Nature is our guide,' announces one high dignitary of the faith, after four days of specially requested meditation. And again: 'Things go on as usual amongst the orthodox Hindus.'†

Many, indeed, are those who add that any law fixing a minimum age for marriage itself, unless drawn and enforced with Draconian severity, is doomed to the same fate. They instance the example of the Native State of Baroda, which, in 1904, promulgated a still extant Infant-Marriages Prevention Law.

'No cataclysm has overtaken society, no great revolution, social or religious, has taken place in

* *Report*, p. 176.

† *Evidence*, iv, pp. 550-552, Kotikannikadanam Acharya Simhasanapathi Penditabhushanam Vidwan Kumaratatacharya Swamigal of Conjeevaram, through M. M. Ananta Row, Secretary All-India Bramana Sabha. December 30th, 1928.

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. . . Baroda,* laughed Mr. Jayakar, in the Indian Legislature Assembly, dealing with the record of that venture.

And, to give point to Mr. Jayakar's sarcasm, we find the record itself, covering a period of ten years, appended to the Age of Consent Committee's Report. For the latest year cited, 1925, it reads thus:

<i>Application for Exemptions</i>	<i>Percentage of Rejections</i>	<i>Number of Cases</i>	<i>Percentage of Convictions</i>	<i>Percentages of Fines of More Than 10 Rupees</i>
12	nil	7,545	83.1	10.2

Or, to put it in another form:

In the course of one year, out of those inhabitants of the State of Baroda who desired to marry girls under the legal age, only twelve persons applied for exemption from the law before putting their desire into practice. Of these twelve, all were granted their request, while of 7,545 persons shown as breaking the law, 6,262 were fined not more than fifteen shillings per head.

Of which fact we are fortunate in having authoritative explanation – that of a high official of the

* *Legislative Assembly Debates*, September 5th, 1929, p. 384.

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Baroda State Government.* Speaking of the law's fine, he says, of his fellow subjects:

‘There are some who look upon this as an additional expenditure of marriage, and some regard it as a present to Government.’

* *Evidence*, ii, p. 223, Rao Bahadur Govindbhai H. Desai Naib Dewan, Deputy-Premier of Baroda.

CHAPTER XIII

THE PINCH OF
POLYGAMY

WHENCE comes the strength of Hindu child-marriage? Whence comes that other power, beyond sexual appetite, that fixes its burden upon the peoples?

Ask this question, and one great main door swings open – to reveal the shrine of the Hindu religion.

This may not be the Hindu religion as dressed for the West. This may not be the Hindu religion as held by some types of its advanced philosophers. But, as surely as thistles grow on thistle plants, it is the Hindu religion as taught to and held by the vast majority of the Hindu people.

Look first at the thistle crop, and then see who forbids the uprooting.

‘If the Legislature takes it into its head,’ thunders the reverend Principal of the Madras Sanskrit

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College,* 'to enforce the marriage of Brahmin girls after the age of thirteen, it will be ringing the death knell of our religion and all ideas of caste and morality.'

The great Hindu doctrine of Karma teaches that the present condition of any creature, whether good or bad, happy or miserable, is the inescapable reward or penalty of conduct in a previous incarnation. And here a moment's consideration may be asked for one practical effect of this doctrine upon what we of the West call citizenship.

The Good Samaritan, had he been a sound Hindu, must have passed by on the other side, as far as sympathy with a suffering fellow being was concerned; for the man who, stripped and robbed and beaten, lay half dead in the highway was thereby merely paying a just debt. To sympathise with him were to doubt the mighty gods; to minister to him were not only to affront the gods, but also to lengthen the sinner's weary course of expiation.

Fundamentally, therefore, it partakes of the impious to be moved to compassion by the pains, however piteous, of any living thing, man or beast.

* *Evidence*, iv, p 458, K. S. Krishna Sastrial.

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Now, at this point a host of Sanskrit texts may be sent flying, a host of pundits summoned; for texts and pundits, as the Hindu often asserts, can be brought in support of any argument. But 'by their fruits ye shall know them.' And the fact remains that the position as stated is the position taken by many a Hindu witness reported in the volumes now under examination.

✓ The strangled muscle atrophies. The starved emotion hides itself away to die. If brotherly love, if chivalry of the strong toward the weak, of man toward women and little children and helpless dumb beasts – if these things be pre-Christ in origin – if these be instincts innate in every race – then the Hindu has well-nigh killed his birthright by denying it air and exercise and means of life.

It is said that the modern intelligentsia has lost faith in the Hindu dogmas – has, in fact, become atheistic. But long ancestral practice breeds its peculiar mentality, from whose subconscious hold the heir does not easily escape. Just as the Western atheist, denying the Christianity of his fathers, will still work as eagerly as any Saint Martin to help the sufferer in his path; so the Hindu, though he has

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discarded his ancient faith, will still pass that sufferer by.

In a nutshell: Applied to child-marriage, the Hindu religious law of Karma, once stripped of sacerdotal phrases, once stripped of mystic ornament, and brought down to pounds of human flesh and blood, works out to-day like this:

If the girl suffers, it is a consequence of her past sins, which she cannot escape; therefore the responsibility for her distress is all her own. If the man's pleasure is served, that also is because of past deserts, and he is in no wise responsible for any destruction (see Appendix I) that, in pursuit of his pleasure – or duty, as he calls it – he inflicts upon his child-wife.

✓ Out of this master influence, therefore, emerge two stout supports of the *status quo*:

ı First, a general popular unconcern, involving non-intervention, in the fate of the girl.

ı Second, a general popular belief in the unneedfulness, as well as the impossibility, of self-control on the part of the man toward his child-wife.

Coming down to the detail of Hindu priests ministrant, facts are simple and witnesses agreed.

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It will not, therefore, be necessary to quote at much length:

The Bar Library of the High Court of Calcutta, in its written testimony, says:*

‘Priests encourage the belief [that puberty should be attained in the husband’s house] because marriages are an economic incident in the life of a priest, and because priests are often the matchmakers employed, and good chances cannot be allowed to escape.’

From the opposite side of the country, a Hindu public man agrees:†

‘It is the itinerant pundit or the village priest, who is responsible for the dogged belief amongst the masses that marriage after puberty or postponement of consummation after puberty is sinful.’

And Sir Tej Bahadur Sapru, (see Appendix III for his testimony at greater length) whose name the world now knows, handles the subject thus bluntly:‡

‘I think ninety-nine per cent of the [child] marriages are due to the priest class. I should make

* *Ibid.*, vi, p. 92.

† *Ibid.*, iii, p. 648, G. P. Jaiswal, LL.B., High Court Pleader, and President, Sohagpur Municipal Committee, Bombay Presidency.

‡ *Ibid.*, viii, p. 249.

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short work of the priests . . . The greatest mischief mongers in Indian history have been the priests.'

A further support of Things as They Are lies in a direction thus suggested by the Age of Consent Committee:*

'In every phase of national activity, the enquirer comes repeatedly against the Chinese Wall of illiteracy and ignorance, which hampers all progress.'

Literacy, as officially defined in British India, means the ability to read and write a few simple phrases in any one of the 222 vernaculars to-day current in India. The latest Census of India gives the proportion of Hindu women able to meet the test as 1.4 per cent.† It is further estimated that eighty-seven per cent of the women of India live in villages the majority of which possess fewer than five hundred inhabitants. The difficulty of disseminating new ideas amongst a population so sparsely and widely distributed, so entrenched in tradition and custom, so deadened by the doctrine of Karma, and, to crown all, so armoured against the printed word, needs but to be named to be realised.

And child-marriage, withdrawing the girl-child

* *Report*, p. 152.

† *Census, of 1921* p. 180.

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from school to shut her away in an illiterate household before her bit of learning has become a fixed possession, continues through the years to make sheer wastage of most of such little education as has been begun.

But of all the devices that the Brahmin has invented to secure himself for ever in his supply of infant wives, the shrewdest is that by which he has made the child's own mind his servitor.

From her earliest years, he has built into her consciousness these obsessions:

(a) That until she is married she is unfit for salvation and has no soul.

(b) That if puberty should overtake her before marriage is accomplished, her dearest on earth – her father and mother – are doomed to the torments of hell; unless by miracle she should succeed in hiding herself from their eyes during her menses.

(c) That, her menses having once occurred, she is an unclean object, unfit to take part in religious rites or to worship in a temple, until purified by consummation* – an idea that the elders of the

* *Evidence*, iii, pp. 233-4 and 240, Dr. (Miss) Kashibai Nowrange, B.A., Honorary Secretary, Arya Mahila Samaj, Bombay; p. 88, Drs. J. N.

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family emphasize by rejecting food contaminated by her touch.*

(d) That it is impossible for her to exercise individual will in the matter – unthinkable that she should ever refuse consent to her husband; for to do so would be monstrous, against all religion and all decency, and would prove her innately evil and accursed.†

This last point is delicately implied by the Hon. Mr. Manmohundas Ramji, member of the Council of State, of Bombay. Says Mr. Ramji:‡

‘As far as the Indian [Hindu] religious and social customs are concerned, a girl even if competent cannot exercise her right of consent to cohabitation

Karande, M.D., and S. M. Varde, LL.B., for the Saraswat Brahmin Samaj, Bombay. *Evidence*, vi, p. 458, Babu Dina Nath Choudhury, B.L., President, Bar Association, Mymensingh.

* *Ibid.*, iii, pp. 596, 600. Mrs. Anasuyabai Kale, Member Legislative Council, Nagpur, Central Provinces.

† Cf. *Ibid.*, iv, pp. 366–7, examination of Dr. (Mrs.) S. Muthulakshmi Reddi, Vice-President, Madras Legislative Council:

‘Q. Do you find that young girls feel the restraint of early marriage very much?’

‘A. They do feel it and they do complain of it to me.

‘Q. Do you think that they have a resentment against the present system of marriage?’

‘A. They say that it is their fate. Of course ignorant girls do not know that it is remediable and so they submit to each and every thing.’

‡ *Ibid.*, iii, p. 277.

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at any age unless she be prepared to court separation from her husband for the whole life, by refusing herself to him.'

Mr. Ramji nevertheless holds that the right to complain of a husband's breach of the Age of Consent Law should lie with the offended wife only.

Such complaints, it appears, are practically never made, either by the wife or by her parents in her behalf. For, to use the expression of one witness* on a point conceded by practically all, wives asking the protection of the law would 'be expelled by husbands, and the girl [would] eventually be deprived of her husband's or parental protection and would become a disgrace to society.'

On the question why the girl-child's parents do not insist on withholding her from her husband's hands until such time as she is physically competent for married life, witnesses say, with one voice: 'Mainly because of the power of polygamy.'

The child-wife may be summoned to her husband's house for a variety of reasons. Thus:

If the husband is an old man – so witnesses every-

* *Ibid.*, v, p. 314, M. R. Ry. N. C. Narasimhachariar, B.A., B.L., Advocate, Karur, Madras.

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where and emphatically agree – he will demand full possession of his property immediately upon marriage, no matter what the child's age or condition; and consummation will follow at once. 'This,' says the Age of Consent Committee, 'is largely due to impatience.'*

If the husband has young children by another wife, discarded or deceased, he is likely to demand his new child-wife at once, not only for marital use but to wait upon his family.†

If the husband is young and inclined to run wild, his parents may demand the wife for marital use although her puberty has not yet come, 'to steady him.'‡

* *Report*, p. 98.

† *Evidence*, ii, p. 199, Dr. Manilal H. Bhagat, Vice-President Ahmedabad Medical Society, Ahmedabad. See also *Evidence*, iv, p. 125.

‡ *Report*, p. 98. The argument advanced in this connection is shown in the following examples: *Evidence*, vi, p. 316, Mahamahopadhyaya Durga Charan Sankhrya Vedantatirtha, Principal Bhagvat Chatuspatty, Calcutta: 'If they [Hindu men] are not married early they resort to filthy ways to satisfy their animal passions . . . It is against the Shastras and also medical opinion to marry youths of twenty to twenty-two years to girls of more than ten or twelve years.' v, p. 459, Aryasomayajula Soma-yajulu, Vaidiki Brahmin, Vizagapatam: 'Males aged twenty-five or even thirty years, i.e., bachelors, marry girls aged six to twelve years . . . Some youths are entering into malpractices from an age of sixteen. By the time their child-wives mature they are becoming skeletons, or even though strong, spoil their health by illegitimate intercourses . . .

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If he is yet too juvenile personally to desire her, his mother may still require her presence to assist in household labour, pending her development of the capacity to bear children.*

In any of these cases, or in any case that can arise, whenever the husband or those acting in his name demand possession of the child-wife, the girl's parents dare not refuse to deliver her up; because, if they do so, the wife will be promptly rejected and another taken in her stead, whereby her position in the world becomes unbearable.

These points will best be grasped through the direct testimony of responsible Hindu witnesses. And, it may be added, no difference of opinion appears in regard to this matter, throughout the entire mass of evidence.

Dewan Bahadur C. V. Viswanatha Sastri,† from

The misery of pure girls who meet their above-described husbands is already too much . . . Girls mature at an age of eleven or twelve and if they are left off for two years more without joining their husbands, their above miseries will increase and some husbands or even most of them [will] foolishly hold unreasonable suspicions toward their wives and even . . . divorce them altogether.'

Both the above-quoted witnesses would have the age of consent reduced, rather than raised, for these reasons.

* *Evidence*, ii, p. 199; v. p. 383; vii, p. 190; ix, p. 330; etc.

† *Ibid.*, iv, pp. 33-35. The witness is a resident of Tondiarpet, Madras.

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long experience as Judge and District Magistrate, writes as follows:

‘The legal guardian of the girl after her marriage is her husband, and he can marry as many wives as he pleases. If the parents of the girl hesitate to allow consummation, there at once comes the ultimatum “will you obey or shall I get my son another wife?” The mother of the child-wife always wants to postpone consummation; but the mother-in-law is always eager to have it rushed through. . . . The health of the daughter-in-law is no concern of hers, as she is certain of getting another daughter-in-law in case the one already got becomes an invalid. A threat of a second marriage always makes the mother of the child-wife, yield.

‘If the girl is not sent,’ adds Judge Sastri, ‘second marriage . . . is generally done within 15 days.’

The same witness offers the following case in illustration:

‘There is a rich Brahmin Vakil [lawyer] in Tanjore. He is worth several lacs and his son was married to the daughter of another leading gentleman in Madras. The boy by some evil deed contracted some disease and the doctor who operated

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on him warned him that he must not have anything to do with his wife for another two years. The boy got all right temporarily and came back to his father. His father asked the bride's father to send the wife. The bride's father naturally hesitated . . . The boy's father sent him an ultimatum; "if you do not send her here I will marry my boy again." Another leading gentleman who was related to the bride's father was asked to intervene. He . . . went to the bridegroom's father, but the latter would not listen. He . . . married him [the boy] a second time simply because the bride's father hesitated. The result was that within two months the boy died, leaving two widows. This is a typical case of a very rich man and a very educated man.'

Other aspects of the principle in operation are afforded in the written statement of a second Brahmin of Western education and unorthodox views:*

'In my own house my eldest daughter . . . died of the effect of cohabitation . . . She was quite unfit for nuptials, but the son-in-law was living with

* *Ibid.*, iv, pp. 401-2, M. A. Srinivasa Iyengar, B.A., B.L., Triplicane, Madras.

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me and even though I might have postponed the formal ceremony [*gaona*, or *garbhadhan* – the rite sometimes accompanying consummation] I could not have prevented the boy's pressure with my mother to support him; and the girl died ultimately in spite of the best medical efforts. She so dreaded getting into the nuptial room!

‘ . . . [In the case of my second daughter] I wanted to conform to the usual early consummation and also educate her. It was a miserable failure, legally, intellectually and physically. Immediately after the girl attained puberty, the husband asserted his legal right to stop the girl from going to school, and celebrated the nuptials. Otherwise he threatened to take a second wife. The matter was fought out in the High Court of Madras, and one of the most equitable judges thought it to be in the interest of the couple to live together even at the expense of education, though the girl, aged seventeen years and eleven months at that time, refused to go to her husband in open Court and was willing to get along with her study. I was asked as her technical guardian, to send her away to her husband and was mulcted with costs.’

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Another Brahmin member of the legal profession* gives his written statement that:

‘There are numerous cases in families high and low where the husband exercises his rights callously and with indifference to the girl-wife, and she is unable to take care of herself, in his house or elsewhere. On this matter the conscience or sense of the community has been dulled by long and customary indifference to women’s rights and is positively cruel and unsympathetic. Any girl whose parents attempt to protect her from such situations or from early consummation gets into hopelessly bitter relations with the husband and can hope for no sympathy from the community whose members, educated or uneducated, will generally support the husband . . . The law is uncertain and doubtful and demands positive proof of cruelty which is very difficult. On the other hand the cases of numerous deaths of girls due to early maternity or abortion do not stir any but passing thought as to the causes and are considered as matter of course. All these are . . . results of a thoroughly wrong attitude to the

* *Ibid.*, iv, p. 407, S. Ramasami Iyer, High Court Vakil, Mylapore.

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weaker sex . . . which . . . in India has become latterly accentuated and sharpened.'

In short, as one Bengali judge* observes:

'An Indian girl has not the same protection from the public as a European girl, in case of distress, nor [anything] approaching it.'

The result of all this, as appears, is that exceedingly few cases of infringement of the Age of Consent Act within marital bonds are brought to court; that no friend of an offending girl-wife would counsel her to appeal for the protection of the law; and that, if she did so, her own nearest would turn against her.

A Mylapore advocate-at-law† puts the matter succinctly:

'The girl's father will, in the existing state of

* *Ibid.*, vi, p. 283, S. C. Ghosh, B.L., Calcutta. Several magistrates affirm that, where a breach of the law has been brought to judgment in their courts, the child-victim, under pressure of her elders, has substituted a palpable invention in place of her original statement, to destroy the complaint. And the Public Prosecutor of Nasik, Bengal, Rao Bahadur G. V. Pradhan, testifies (*Evidence*, iii, p. 200) to the extreme difficulty of legally establishing the child-wife's unwillingness for the act unless she has chanced, in her struggles, to implant her only weapons of defence on her husband's face.

'When no nail-marks are to be noticed,' affirms the Prosecutor, 'it is difficult to prove want of consent.'

† *Ibid.*, iv, p. 502, C. Veeraraghavier, Mylapore, Madras.

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things, frantically shield the husband, as, according to his belief, marriage, to his girl, is a sacrament, and even if his daughter is raped by her husband, Dharma [religious duty] and Sanctity cry against [her father] betraying the said husband. He will naturally collude with the offender and suppress the offence and also go to the extent of concocting evidence as to the age of his daughter being higher than her real age. I am not saying anything hard against the Hindu father, but, situated as he is, he will honestly believe . . . that his Dharma points that way.'

Three of the four witnesses just quoted, it will be observed, are men of Madras Presidency. But the fact that their testimony is representative of general Hindu conditions, rather than of a local element only, is made clear by the pronouncement of the Age of Consent Committee, who, having heard the testimony of all India, report as follows:*

' . . . parents who desire to keep the girl with them till [the statutory] age, are forced to yield to the pressure of husbands or their parents or guardians, accompanied as it sometimes is by

* *Report*, pp. 141, 97 and 131.

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threats of legal proceedings, and send the girl to the husband's home.'

Again, 'The fitness of a girl for consummation and possible motherhood from the physiological point of view is hardly taken into consideration.'

And yet again: 'Even with the widest publicity given to the law and the most intensive educative propaganda, it is apprehended that there may not be any enthusiasm on the part of the average individual to concern himself with the domestic affairs of his neighbour, to such an extent as to expose him to the penalties of a criminal law.'

CHAPTER XIV

POTENTIAL SAVIOURS

HAVING asked: 'What factors in India to-day come first in support of Hindu child-marriage?' it is fair now to put the opposite question: *What is afoot, in India to-day, to unseat Hindu child-marriage?*

And here, in order of effectiveness, the work of one type of Christian missionaries must be placed first.

These, I believe, are mainly such as that valiant English divine, Bishop Henry Whitehead, his spiritual son the Indian Bishop of Dornekal, and the Salvation Army folk, who, living and working amongst the Untouchables, lowest of the low and poorest of the poor, have brought forth by their obscure, unadvertised, and truly self-immolating labours an already considerable and steadily growing number of declared converts to the Christian faith.

If the evidence taken by the Age of Consent

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Committee is to be believed, these converts, whatever their original practice, so generally adopt late marriage that it is fair to point to the Indian Christian community, mostly Untouchable in origin, as a non-child-marrying class.

But the Indian Christian community possesses a value to India greater than its use to itself. Being furnished, by its new creed, with a motive to serve others – having the icy despair of Karma melted out of its heart – it is to-day supplying to India almost all of the few Indian sick-nurses, and the great majority of Indian women teachers now available for the instruction of Hindu girls of all castes.

The Untouchable, one may stop to recall, is that object beneath humanity, yet wearing human shape, that the Hindu will not touch lest his own purity be defiled. The Untouchable's shadow, falling upon food, renders food unfit for the caste man's use. In some parts of India the Untouchable's breath is held to foul the air. The very sight of him can be a pollution. He may not hear or learn the words of the Hindu's holy writ; nor enter a Hindu temple to worship the gods; nor educate his children in

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common schools; nor draw water from a public well; nor use the highways and streets with freedom; nor freely testify in courts; nor use public hostels and dispensaries; nor ask in open market the market value of his wares; nor fix a price for his labour; nor defend his women from the Hindu's pleasure (for such contact, we learn, does not ceremonially pollute); nor choose for himself any calling save those esteemed unclean and shameful.

And this fate, says the Brahmin, is the Untouchable's just due.

Because, aeons ago, in a former and forgotten incarnation, he committed some heinous sin. Re-born myriad times in the shape of maggots, worms, reptiles, he has now reached the stage of expiation in which, in the despised and despicable semblance of a man, he is permitted to be the slave of the Hindu world.

Such degradation – a degradation of soul as well as of body – it remained for the Brahminic code – the Hindu religion – to invent.

To the caste Hindu it has secured, through the ages, the undisturbed possession of many millions of slaves. And this possession, although difficult to

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justify in the eyes of an enquiring outer world, the caste Hindu will not easily forego.

Keeping all of which in mind, one turns with interest to observe a series of ironic facts of the present day: (a) That the chances of education, for the caste Hindu women of India, depend, under existing conditions, chiefly on the ability and good will of such of their slaves as escape from Hinduism's grip. (b) That such escape, such ability, such good will, largely depend on the failure or success of Gandhi and his compeers to block Christian proselytising. (c) That meantime, out of, roughly, 30,000,000 Untouchable or 'Depressed Class' females, less than 50,000, by the most flattering estimate, are recorded as receiving education in any sort of recognized institution, lay or missionary; and only one Untouchable girl out of every 30,000 is kept in school beyond the primary stage* –

* See *Report, Indian Statutory Commission*, i, pp. 395–6. This volume, better known as the *Simon Report*, roughly estimates the number of Untouchables – 'those causing pollution by touch or by approach within a certain distance' – as 43,600,000 in British India (p. 40). Other estimates range as high as 70,000,000. Accepting the Simon Report's figures and including the Untouchables with the Hindus, as being the Hindus' serfs, we find that the Untouchables constitute about twenty-eight and a half per cent of the total Hindu population of British India, excluding Burmah.

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this mainly because the caste Hindu, naturally objecting to the education of the Untouchable, misses few opportunities quietly to defeat the operation of democratic educational decrees.

The potentiality, to India's future, of the caste Hindu's multi-millions of slaves, is enormous. Should the Untouchable one day become class-conscious; should he take on a virile, free man's faith; should he break loose from the Brahmin's grip and, by a miracle, reject the Brahmin's subsequent wooings; should he acquire organization and set out to make himself politically felt – he will hold the scales in his hand.

And there are clouds on the far horizon to-day – no bigger than a man's hand, to be sure, as yet – clouds that may mean storms to come. Cruelly out-matched, cruelly overawed and tempted, we saw the Untouchable representative at the London Round Table Conference crumple up piteously and abandon publicly his people's cause. No one who realizes his strained, unnatural, and solitary position can fail to give that victim a hearty sympathy. But, if the signs hold good, we may be able before long to give better stuff than sympathy –

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admiration – to some staunch Moses yet hidden in the Untouchable ranks.

Meantime, one type of Christian missionary, while persuading the Untouchable that he is a man and not a god-accursed worm, is incidentally making him the exponent of a sane marriage system.

This factor combating child-marriage, humble though it looks for the moment, is a definite, dynamic, and growing force, as distinguished from barren eloquence.

To offset the Christian effort, the closest parallel that our caste Hindu witnesses have to offer seems to be the influence of the Brahmo Samaj, a reform association composed mainly of high-caste Hindu intellectuals.

This body practises late marriage and educates its women, some of whom become teachers – usually in city schools rather than in villages, where the greatest need lies.

But whereas the Brahmo Samaj, though launched one hundred years ago, is credited with only 6,388 members* in all India, the All-India Indian Christians are to-day estimated as comprising about four

* *Census of 1921*, p 119 the latest available count

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and a half million souls – and in the last half century of missionary work have more than doubled their number.*

Furthermore, throughout the entire mass of Hindu evidence educed by the Age of Consent Committee appears a persistent and striking tendency on the part of witnesses to disbelieve in the effectiveness of any and all Hindu social reform movements. This tendency seems to rest on certain few basic ideas or conditions. As:

First. That action, in our Western sense, is not necessarily implied in the Hindu's concept of the word, i.e., the Hindu may think to a point – and that is an act; but it by no means implies speech voicing the thought. Or, he may speak to a point, and that is an act; but it again implies no deed in accordance with the speech. Each of the two is sufficient to itself, complete; neither necessitates a sequel. Thus, a Hindu social reformer may and does acquire great reputation as such and maintain it his whole life long, by means of talk only. Not once need he stake his name or his influence by any action. Not once need he risk his popularity by exact-

* *Indian Statutory Commission*, i, p. 31.

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ing of his followers the actual and permanent abandonment of a practice to which they cling.

Second. That the whole concept of social effort, in the sense of concrete, vigorous, and continued work for the good of strangers, is foreign to the Hindu mind; is, definitely, an importation from the West; is as much at odds with the current religious-social code as a splinter in one's finger is at odds with the flesh in which it sticks.

Third. That the ordinary Hindu individual is too lacking in vitality of mind and body, too easily wearied and discouraged, too erratic, too weak of will and purpose, to fight his own and his countrymen's sexual instincts in a long uphill battle against their inner natures;* and, further, that he lacks incentive to brave the scorn and resentment of family, friends, and caste in behalf of foreign notions for which they have no admiration or sympathy, neither any real understanding.

All these conditions Hindu witnesses freely and frankly declare to prevail. And, so declaring, they attribute them, commonly, to one of two causes – either to the presence of a foreign government in

* See Appendix ii.

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the land or to Hindu habits of life sufficiently indicated in earlier pages of this record.

Think, now, of the enormous multitudes of the Hindu orthodoxy – folk of all castes and ranks and conditions, scattered in their hundreds of thousands of villages, broadcast over India. All alike are bound to and by their ancient creed; all alike are hermetically shut up in the armour of caste and illiteracy. Where, then, out of Hindu-minded human material, are enough messengers to be found ready, able, and willing to carry social reform gospel by word of mouth to these undesiring myriads?

Says a Hindu woman educator, resident in Bengal:*

‘If we are to rely upon the progress of social reforms through education and other means, then we shall have to wait till we see the nation doomed. We cannot rely upon the moral sense of the illiterate millions. The past history of the land is a lesson to us all. It is through legislation that infanticide, *Sati* and other evil customs have been put down.’

From far-away Sind a voice rises in accord:†

* *Evidence*, vi, p. 279, Mrs. Sarkar, Principal of the Maharani School, Darjeeling.

† *Ibid.*, ii, p. 109, Rao Bahadur Hiranand Khem Singh, Hyderabad, Sind.

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‘If we wait till social reform has penetrated the huge illiterate mass, in which everything has been fossilized by custom, we shall have to wait till doomsday. In all countries, whether civilized or uncivilized, it is the few wise who legislate, and not the multitude which, as Socrates says, consists of fools.’

‘Right kind of education would do well but would take aeons,’ reflects a Madras Theosophist.*

And another† from that old Presidency laments ‘the lethargy and inertia which unfortunately characterise the mentality of the educated classes in this country in matters of social reform on account of a certain lack of courage on their part to bell the cat and bear the odium of the orthodoxy.’

Specifically of Hindu social reform organizations, an official of one of the great orthodox religious leagues‡ declares flatly:

‘These societies are never founded on a permanent basis. A society is formed and very soon it

* *Ibid.*, v, p. 504, V. Subrahmanyam, Secretary, Theosophical Lodge, Vizagapatam.

† *Ibid.*, p. 366, Sreeman B. S. Ruth, B.A., B.L., Secretary, Madras Presidency Oriya Association, Berhampur.

‡ *Ibid.*, ix, p. 7, Shiv Dur Pande, of the Sanatan Dharm Sabha, Meerut.

is dissolved. In course of time the interest slackens.'

'Social reforms [have been] going on in India for the last fifty years at least, but their achievement in this direction has not been much,' asserts a Hindu lady of the new school.*

And this alleged lack of progress, one learns from Mr. C. C. Mitra, Calcutta attorney, amongst many others, is simply because the *status quo* is still satisfactory to every one concerned 'except perhaps a microscopic section of Brahmos and England-returned people who want to pose as reformers.'†

But a thoughtful youth of Allahabad‡ is disturbed. 'The whole trouble is,' says he, 'that we have had so many committees in India and they have done no work.'

'Have you heard of the resolution passed at the various Conferences of Women?' the Committee enquires of another denizen of that city.§ 'There

* *Ibid.*, p. 191, Mrs. Phulavati Shukla, B.A., of the Standing Committee, All-India Women's Conference.

† *Ibid.*, vi, p. 18. By 'Brahmos' Mr. Mitra means Brahmo Samajists; by 'England-returned,' Indians who have visited England and have come home again.

‡ *Ibid.*, viii, p. 221, Pundit Rama Kant Malaviya, son of Pundit Madan Mohan Malaviya.

§ *Ibid.*, p. 238, Pundit Behari Lal Nehru, Allahabad.

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have been resolutions,' returns the witness, 'but they have not been carried out.'

'It is now twenty years since we have been passing resolutions year after year and sending them to the proper authorities,' proudly declares the secretary of the National Social Conference and of the Bombay Presidency Social Reform Association.* But when the Committee would know what stir these labourers have awakened in the minds of the populace, the Secretary responds:

'The feeling is not so keen, so far, as to affect the practice.'

A Nationalist politician's view is expressed by Mr. Amar Nath Datt, member from Bengal to the Legislative Assembly. Mr. Datt† is an eloquent moralist and patriot. One gathers that he dislikes seeing, as he says, 'a man of fifty-two advancing money for a girl of six or seven.' He disapproves of child-marriage. But he is, none the less, 'opposed to any social legislation by an alien Government' – 'would not have Government help in this matter at

* *Ibid.*, iii, pp. 246, 250, D. G. Dalvi.

† *Ibid.*, vi, pp. 5-6, Amar Nath Datt, Member Legislative Assembly and Advocate of the High Court, Calcutta.

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all.' In fact, if he could, he gladly would sink the Alien Government, with this day's sun, and so at one stroke end every sort of evil or difficulty, for old Mother India.

'Do you mean,' asks the Committee, 'that all crimes will at once cease when Swaraj Government comes?'

'Certainly,' replies Mr. Datt, 'It will be a paradise.'

Yet, he reflects, something might meantime be done, perhaps, in the way of social reform propaganda and in educating public opinion . . .

'Have you taken any step towards starting any social reform propaganda?' the Committee puts in.

'I have not,' retorts the legislator – 'I have devoted my life to politics and politics alone and I cannot take up social reform work because it would be too much . . . these political battles have to be fought by words and arguments; they do not depend on physical progress.'

Through the warp and woof of Hindu testimony now heaped before us run many threads of statement and opinion on the existence, the purpose, the

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effectiveness, and the future of Hindu self-reforming undertakings – statements and opinions so diverse that even to name them all would serve merely to produce confusion in the reader's mind.

But, fortunately, here as on other points, we have at hand the continuous corrective of the Committee's judgment – the judgment of experienced Indians, who have personally heard all the testimony, who recognize comparative values, and who naturally bring to their task an understanding mind keenly sympathetic with their country's concerns.

Many are the social reform organizations, many are the women's associations, whose representatives have appeared before the Committee to explain their several ranges and activities. But British India, over one-third the size of the United States of America minus the non-contiguous territory, possesses about two and a quarter times the population. And the Age of Consent Committee finds not only the numbers, but, more tellingly, the fibre, of present Hindu reform organization unequal to the job of coping with this area, its conditions and its multitudes. The Committee's verdict is brief:*

* *Report*, p. 133.

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‘The number of these institutions is so small and the places where they exist so few, that it will be a travesty of facts to suggest that these associations would serve the purpose of reporting even grave cases of breaches of the law. The rural areas may be altogether wiped out of the map if all hope is concentrated on the manner in which these associations will function.’ And again:

‘While we thankfully recognize the growing public spirit in the country, we do not share the high hopes which some entertain of every village and town in India being honey-combed in the near future with Social Reform Associations or Women’s Organizations.’

Nevertheless the Committee is able to strike a more hopeful note. And although the percentage of women of whom it therein speaks is relatively, indeed, infinitesimal, one may well remember that leadership is the gift of the few to the many. Says the Committee, in its optimistic strain:*

‘During the last few years, a new consciousness has dawned on the women of this country as regards their status and the role they have to perform in life. This is embodied in the central idea of service to

* *Report*, pp. 157-8.

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their sex and society in the various phases of natural activity. So long as women in India were content to confine themselves to home and household duties and so long as they looked upon the husband as the supreme authority, their ambitions were confined to domestic affairs and they were indifferent to acquiring qualifications which would fit them for the service they now desire to render. Women are now members of local Corporations, and Provincial Councils* and as education is advancing amongst them they are gradually entering the learned professions. They are seeking equal opportunities with men, and men on their side are generally responsive to the efforts women are making to raise their status. Women are no longer content to remain stationary and the change of outlook on their lives is a fact of very great significance in considering, among others, the question of advance in the age of marriage.

‘The movement for the emancipation of women largely depends upon this one question, and no wonder the women in this country who came as witnesses before our committee have with one voice insisted on an advance.’

* Several of these have been quoted in foregoing pages of the book, as pages 69, 140 and 152.

CHAPTER XV

AMERICA

FOR the past twelve years, more or less, the spirit of Nationalism has been gathering headway with increasing speed, amongst Indian politicals. Parallel with that growth has grown the Indian political's concern for the public opinion of the West and, above all, of America.

This latter phenomenon is partly because private sympathy, in America, is easily induced to take shape as cash; and partly because, perceiving the British Government's often-evinced desire for the support of American opinion in matters of public policy, the Indian political has recognized in American opinion an engine potentially useful for his own purpose.

For evidence of this, one has but to review the last few years' roster of political emissaries, Indian or agents of India, who have besought American

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attention from platform and pulpit, and by the printed word; who have openly established propaganda centres and press agencies at strategic points in this country; and who, aside from the money they gain or collect, can have no immediate reason for their exertions other than to spread admiration of the culture and religion of India, sympathy with her rights and wrongs, and belief in her ability to run her own affairs.

Upon the peaceful course of this movement intruded, some three or four years ago, an American book reporting on child-marriage, on Untouchability, and on racial hygienic practices bad enough to concern the safety of the outer world, all being shown as the product of Hindu culture and of the Hindu religion.

From the point of view of the Hindu, the book contained nothing notable or new. It was, in fact, merely a statement, to him bald and dull enough, of the way that he and his forbears have elected to live their lives. Had it been printed in an Indian tongue, or had it been printed in English but published in India only, it would have aroused in India not a moment's stir. Witness the books of

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Dr. Phadke,* of Miss Sumati,† and of Mylavarapu Timmaya‡ – books which, though out-Heroding Herod in their exposure of the conditions touched upon in the American report, wilted from the Indian Press to die unnoticed, whether in praise or blame – as frail as so many valentines.

The American book, on the contrary, seemed to trouble the Hindu political to the point of frenzy.

But the seeming was seeming only.

If bare news of its publication sent the Hindu political flying to his Government to demand hostile action; if the Mayor of Calcutta hastened to call a mass meeting in his Town Hall, there in violent speeches to repudiate the malice and falsehood of a publication not yet seen, while local leaders up and down the land followed his example; if the Hindu Press turned on the waters of its wrath and left the tap open – none of this was because of any quality in the book itself; and all of it was

* *Sex Problems in India* by N. S. Phadke, with foreword by Margaret Sanger, Taraporevala, Sons and Company, Bombay, 1927.

† *Woman Awakened* by G. Sumati Bai, B.A., Tagore and Company, Bangalore, Madras, 1928.

‡ *Is India Fit for Swaraj*, by Mylavarapu Timmaya, Vani Press, Bezwada, 1929.

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simply and solely because the book was being read in America.

In other words, that structure of blind veneration of the ancient Hindu culture; of timid, yet curious awe before its mystic powers; of humble reverence toward its superior spirituality, all so laboriously built up, for a purpose, through many years of talk, seemed now in some measure endangered.

At the most inopportune of moments American opinion was beginning to fidget in its seat, to yawn – worse yet, to ask for facts of common patterns – and all before the final collection had been taken up, or the last ‘resolution of sympathy for India’s national aspirations’ been ‘unanimously passed.’

America, obviously, must at all costs be quieted. More and better speakers must be sent out – new types with new appeals. Louder guns, altogether.

Meantime, on this embarrassing Hindu child-marriage question, America must somehow be satisfied. But how? How to do it?

It was now the Autumn of 1927, and already the regular propagandist forces in America were calling out in distress, demanding quick action. The

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Indian Legislative Assembly was about to meet. – How about that Bill of Assemblyman Sarda's, introduced last term? Perhaps that, with luck, might serve the purpose.

Assemblyman Sarda's Bill, accordingly, was rushed through debate – a debate presented in brief in the first chapter of this present book; a debate that developed many differences of opinion as to points vitally concerned. Differences so many and so vital, indeed, that the Government, as has already been said, held it wise to send forth a body of qualified Indians, the Age of Consent Committee, to survey conditions and bring back facts.

Also, the Sarda Bill, as presented, stood in need of one radical alteration to make it acceptable to the Hindu members of the Assembly.

So the Assembly, at the close of that day's debate, had sent the Sarda Bill to a Select Committee, to be dressed into shape. And the Government – presently – had sent the Age of Consent Committee forth upon its job.

The Age of Consent Committee, taking testimony up and down the land, heard much and continuously, far and wide, about the attitude of America. The

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bulk of this talk came from Western-educated witnesses, men and women of the intelligentsia, politically minded. Desiring independence from Britain, they foresaw close at hand a struggle to gain that independence – a struggle in which American sympathy, so their leaders told them, was of prime importance.

They resented American criticism – criticism of their ancient culture from that base race of whom Judge Lindsey could write his book. They knew Judge Lindsey's *Companionate Marriage* almost as though it had been a Sanskrit Scripture, and quoted it, side by side with the Shastras, into the evidence. Must they, the heirs of the Wisdom of the Sages, indeed submit to be weighed and questioned by a folk whose women were like alley-cats and whose ideals, as a whole, were so little to be respected?

But yet the point at stake was a point of practical politics. As such they recognized it. Again and again they declared its high importance – as by the mouth of this spokesman:*

* *Evidence*, ix, p. 423, B. Mukherjee, M.A., Reader in Economics and Sociology, University of Lucknow.

A M E R I C A

‘The fate of the [child-marriage] reform movement will make or mar our case for Swaraj in India. It is hardly necessary to emphasize that England, America and the rest of the civilised world is watching us . . . Our fitness for Swaraj will be judged and decided by what we do or dare not do on this question.’

CHAPTER XVI

THE TEST
OF CIVILIZATION

‘OUR fitness for Swaraj,’ said the witness last cited, ‘will be judged and decided by what we do or dare not do, on this question.’

What they dared *not* do on this question of stopping child-marriage was to enact a law with teeth in it.

The triune obstacle in the way of stopping Hindu child-marriage is the lack amongst Hindus of mass opinion desiring such action; the hopelessness of mobilizing general co-operation without such desire; and the equal hopelessness of affecting any material reform without such co-operation.

The Hindu Child-Marriage Restraint Bill, as originally introduced* in the Legislative Assembly by its sponsor, Mr. Sarda, boldly faced these

* January, 1927.

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obstacles. Aimed at a concrete object – to end Hindu child-widowhood – it proposed to *declare invalid* the marriage of any girl-child under fourteen years of age.

Now, had such a measure been enacted into law, the balance of power had at once been shifted – or reversed. For its invalidating clause would have snatched the whole question from the cloud-fields of religious dispute and, for each and every Hindu citizen, would have brought it flat down to a simple issue of bread, butter, and the law courts.

Such a law would have rested, for public support, not on a languid, academic, or non-existent concern for the fate of the child-wife, but rather on the intense personal interest of next-of-kin to prove illegitimacy against the child-wife's son and thereby contest his inheritance of his father's property.

Now, although love of litigation is, with the Hindu, a strong gambling passion, such a move as this might, at the outset, have aroused a storm amongst the masses. Even the Age of Consent Committee dared not recommend its adoption.*

'It is against all the canons of Hindu law and the

* *Report*, p. 175.

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Hindu Shastras,' one alarmed legislator had cried out at the start,* 'that a Hindu marriage duly performed should be challenged by any temporal authority.'

The sacred right to burn a widow alive on her husband's funeral pyre, although fiercely defended by the orthodox Hindu of that period, had been, it is true, not only challenged, but at one stroke cancelled, by temporal authority.

But that authority was the foreign government in the land.

What was now proposed was a different thing – was that an Indian legislature, over seventy per cent elected by Indian voters, should assume the responsibility and brave the consequences of a widely unpopular act.

The elected Indian legislature took a day to consider.† Then it quietly slipped Mr. Sarda's Hindu Child-Marriage Restraint Bill into the hands of a Select Committee, to undergo in private 'the necessary changes to make the measure acceptable to this House.'

* *Legislative Assembly Debates*, September 15th, 1927, p. 4, 414, Kumar Ganganand Sinha.

† See Chapter I, *ante*.

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All of which detail pertains to the debate of September 15th, 1927, described in the first chapter of this book.

The Select Committee did as it was bid – dealt with Mr. Sarda's Bill – dealt with it silently, discreetly, thoroughly. So that the object that at last rolled back into view was no more a rough, coarse, provocative, hard-hitting fighter, but a show-window dummy so expertly built that, observed from afar and not too keenly, it looked alive.

This new Sarda Bill's teeth were all drawn. Its invalidating clause had been painlessly extracted. No power remained in it to trouble the land. It now merely suggested that:

The man between the ages of eighteen and twenty-one who marries a child under fourteen, shall, if the magistrate thinks best, pay a fine which shall not exceed 1,000 rupees. If he has not the money to pay – why, that is that. No alternative penalty can be imposed.

The man above the age of twenty-one – no matter how much above – who marries a child under fourteen, may be asked to pay a fine of not

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over 1000 rupees; or may be sent to prison, without labour, for not over thirty days; or both; the magistrate using clemency as he sees fit.

BUT IN EACH CASE THE MAN RETAINS POSSESSION OF HIS CHILD-BRIDE.

For, 'When law does not invalidate marriages, every husband has got a full, unqualified and absolute right to the custody of his wife.'*

And finally, as though one touch more were needed to make the dummy dumb indeed, a clause like this:

If any person attempts to invoke this law on behalf of some child-victim, the Court shall require him, the complainant, to give bond as security for payment of charges should the case go against him. If, when required, he fails to furnish such securities, the Court shall dismiss the case †

On January 29th, 1929, this corpse of a 'Child-Marriage Restraint Bill' came again before the

* *Report*, p. 270. Note of Pundit Thakurdas Bhargava.

† The Child-Marriage Restraint Act, commonly known as the Sarda Act, as finally passed by the Indian Legislature, fixes the minimum marriage age for males at eighteen. The act is given in full, as Appendix IV of this book. It will be observed that, as enacted, it applies to all British India, and not to the Hindu alone, as originally proposed.

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Legislature for consideration. And the Legislature, rising to the occasion, plunged into debate with as much vigour as if the thing yet lived.

‘A grave responsibility rests upon this House, declared the original proponent in an impassioned speech.* ‘People in England and America are watching how we deal with this Bill . . . have declared that India cannot be granted self-government as long as she tolerates and commits acts of oppression against girls of tender age . . . We cannot keep the women of India ignorant and helpless and slaves and yet ourselves become free. The greatest of the Americans, Abraham Lincoln, gave utterance to an eternal truth when he said “A nation cannot be half free and half slave”.’

The House voted that consideration be postponed till the Report of the Age of Consent Committee became available to the members of the House.†

Consideration was resumed in the following September.

It opened, still sounding the note, ‘Beware the West?’

* *Legislative Assembly Debates*, January 29th, 1929, pp. 196–7.

† *Ibid.*, p. 204.

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‘Sir,’ exclaimed a champion of the Hindu orthodoxy,* as he launched his attack, ‘Sir, this morning when I came into the Assembly building, I was greeted with a big placard with these words in bold print, “If you oppose Sarda’s Bill, the world will laugh at you!”.’

But before he resumed his seat the speaker had uttered this shrewd comment on the measure under discussion:

‘I think there is no parallel in the civilized world for inflicting punishment on marriage which is valid in law, ordained by religion, and sanctioned by immemorial usage.’

The debate proceeded with vigour.

Said Assemblyman D. V. Belvi, of Bombay,† calling for still better camouflage, yet with sand in his teeth:

‘If you bring in this Bill simply to make an impression upon the people of America and Europe that you are progressing very fast in matters social, then pass a Bill once and for all fixing the age even

* *Legislative Assembly Debates*, September 4th, 1929, p. 262. S. Seshu Ayyangar, Madurai.

† *Legislative Assembly Debates*, September 5th, 1929, pp. 356-7.

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at sixteen or eighteen for women and twenty-five or thirty for men . . . Every one of us here sitting is the product of child marriage . . . Society tolerates this, but society will not tolerate your oppression or coercion. You have no right to force down the throats of people your own views.'

Yet, urged another:*

'We are at the present time clamouring to be regarded as an advanced nation, as a nation qualified to take our place . . . in the category of free nations. Sir, even if this Bill were to remain a dead letter . . . its passage will have done something to raise our national self-respect. The eyes of the outside world are on us. If this Bill is not passed, can we stand up and claim that we are a civilized nation?'

The *Report* of the Age of Consent Committee now lay upon the desks of the Legislature – a volume of 353 pages, which was found bulky to digest.

In the *Report* stood this warning:†

'There can be no doubt that, now that India is

* *Ibid.*, pp. 366–7, the Rev. J. C. Chatterjee, nominated, Indian Christian.

† *Report*, p. 168.

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soon to take her rightful place in the comity of nations, it is all the more necessary that she should put her domestic affairs in order; the offspring of weaklings are generally physically degenerate and incapable of sustained physical or mental exertion.'

Then up spoke Pundit Madan Mohan Malaviya, political high priest of the orthodoxy. 'Where,' he demanded in effect – 'Where is the evidence that this *Report* is based upon? Show us the evidence, before you ask us to accept the findings.'*

For the nine big volumes behind the *Report* itself had not yet been supplied to the Legislature.

But Assemblyman Jayakar – he whose name was soon to become familiar to the world as prominent among the Hindu delegates to the Round Table Conference in London – M. R. Jayakar, of Bombay, took a different line. Said he:†

'If that evidence is published, . . . it will be a most harrowing piece of information. It will make our hair stand on end. I was not a member of that Committee and did not hear that evidence, but I had friends on that Committee who have

* *Legislative Assembly Debates*, September 5th, 1929, pp. 368.

† *Ibid.*, p. 385.

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told me that that evidence, if published, will be a relentless story of cruelty and selfishness.'

But, asserts Mr. Jayakar, 'Supposing the evidence . . . is published, then the question will be raised that the evidence is not truthful, that it does not really represent the facts, that it is a one-sided and inaccurate picture. We will then be told . . . that all this evidence is one-sided, it is not truthful, it is not an accurate picture.'* Next will be demanded 'another inquiry by an independent committee of a contradictory character.' And 'I can assure my Honourable friends that this Bill will then be hung up for another half-a-dozen years.†

It is another personage, later a marked figure in the London Round Table Conference, who, as member of the Legislative Assembly and of the Age of Consent Committee as well, now earnestly supports the tenor of Jayakar's words. Mian Mohammad Shah Nawaz, rising from his Assembly seat, thus addresses his colleagues:‡

'The Committee has travelled far and wide and I assure you that the Committee has enquired into

* *Legislative Assembly Debates*, September 5th, 1929, p. 379.

† *Ibid.*, pp. 380, 385.

‡ *Ibid.*, pp. 373-4.

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the matter with an open mind and with absolutely no bias. In fact, before I joined the Committee I was under the idea that the evil of early marriage, early consummation, and early maternity was not so great as it was represented to be. But now, I have seen the things with my own eyes, I have heard the evidence with my own ears. The evil is widespread and things are far worse than they are described in the *Report* because we did not think it advisable to excite or provoke unnecessarily the feelings of orthodox people . . .’

Mian Mohammad Shah Nawaz is a Muslim. One more Muslim shall now be cited, and that the last. Mr. Muhammed Ali Jinnah will be heard with interest because his eminent part in the Round Table Conference placed his name in daily world-news, and because, though long a Nationalist leader in the Indian Legislature, he does not now try to blink or to shift the burden of fact. Striking straight, he asks:*

‘Are we going to tackle this horrible evil? . . . How can there be such a divine sanction to this

* *Legislative Assembly Debates*, September 11th, 1929, pp. 667-8.

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horrible, disgraceful, inhuman practice that is prevailing in India? . . . As far as my own constituency is concerned, that is, Bombay, I have no mandate from them . . . But, Sir, I make bold to say that if my constituency is so backward as to disapprove of a measure like this, then the clearest duty on my part would be to say to my constituency, "You had better ask somebody else to represent you".'

And still the argument proceeded. Many amendments were offered, in one sense or another further to reduce the strength of the measure 'on the anvil.' Amongst those who would so amend is Assemblyman B. S. Moonje. Dr. Moonje will best be remembered as that Hindu delegate to the London Round Table Conference whose anti-British speeches were perhaps most violent.

In the matter of the Child-Marriage Restraint Bill, Dr. Moonje carries a burden. As Hindu legislator, as medical man, and as President of the Hindu Mahasabha (Grand Association), he feels himself laden with threefold and not altogether compatible obligations.

As legislator, he is bound to point out to his fellow Hindus that they are not the equals, in courage or in

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vigour, of the Muslims beside whom they live. This delicate duty he handles tersely:

‘We have seen the fact, the most humiliating fact, two months ago in Bombay, of twelve lakhs [1,200,000] of Hindus being cowed down by 4,000 Pathans [Muslims of Afghan stock] . . . We have to live as neighbours with peoples of another community, whose standards of sexual morality and manner of observing them particularly in respect of womenfolk of the Hindu community – are different from ours.’*

In his capacity of medical man, Dr. Moonje is next driven to declare that it were well for Hindu hope of continued political ascendancy if Hindu mothers were girls of full growth, rather than little children.

And yet, on the threshold of emphasising this law of hygiene and strategy, he is arrested midway by his duty as President of the great Hindu Mahasabha.

For, however Hindu Holy Writ may be construed by this or that special student, whatever public health or political ambition may advise, the Hindu myriads behind his Mahasabha cling to their custom

* *Ibid.*, September 16th, 1929, p. 917.

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of child-marriage. And now they are confronted with threats of chancel

As one of their local spokesmen* had phrased it, 'It is impossible – for any one else – to imagine the loathing and alarm with which the proposed legislation is viewed by the orthodox Brahmins . . .'

'And to those who are born and bred up in that custom, as I am,' cries the sorely-beset Dr. Moonje, 'the pang of the wrench is excruciating.'

Others speak, to varying purpose. But the voice most authoritatively demanding attention is that of the veteran Swarajist leader, Pundit Motilal Nehru† – he who, in the following year, was to head the National Congress until his imprisonment for sedition.

Pundit Motilal Nehru, Kashmiri Brahmin, member of Legislature from the cities of the United Provinces, broke forth wearily,‡ near the end of the day's debate:

'It seems to me, and it has seemed to me all

* *Evidence*, v, p. 344, N. L. Dorai, Secretary District Landholders' Association, Trichinopoly.

† Died February 6th, 1931.

‡ *Legislative Assembly Debates*, September 11th, 1929, pp. 679-80.

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these two years that this [child-marriage] controversy has been raging, that it is the silliest possible question which any two men or two women can sit down to discuss seriously. When I see what I can by the use of my eyes, do I need to be told what the doctors think of it, what the Shastras say about it, or what the Smritis or Srutis lay down in regard to it? I have seen the havoc that this custom plays every day of my life for the last sixty-eight years. Do I need any further proof of the mischief that is being wrought by this wicked, diabolical custom? . . . I do not believe that there can be any injunction in the Shastras to countenance a fiendish custom like this, and I further say that, if there is such a sanction, the Shastras have no use for me, and I have no use for them. . . . It may be said that I am prejudiced. Well, yes. If a life-time of observation means prejudice, I certainly am prejudiced. . . . The practice is so obviously inhuman that anybody who calls himself a man would naturally be staggered at what he sees with his own eyes.'

' . . . I need not remind the House that to-day the eyes of the whole world are upon this House.

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'We are going through a test, which, if we successfully pass, will justify our claim to rank amongst the civilized nations of the world . . . [If we do not pass this Bill] we shall go into deeper depths of degradation than we can possibly imagine in the eyes of the other nations of the world.'

How did the Indian Legislature meet this naked and bitter summons? How did it pass this crucial test? How did it establish its 'claim to rank amongst the civilized nations of the world'? The Indian Legislature quietly opened the cupboard door. It drew out its dummy, and, by sixty-seven ayes to fourteen noes, it voted* that dummy into 'effect' from April the First, following.

And the Press of America and the Press of England, unwarned by that merry date, too far away to discern the prank that had been played, did exactly as it was hoped they would do.

They tossed their hats up in the air and cheered in honest joy for the Dawn of a New Day for millions of Hindu girl children.

* *Legislative Assembly Debates*, September 23rd, 1929.

CHAPTER XVII

APRIL FOOL'S DAY

WHAT followed is soon told.

Six months were yet to elapse before the new law became effective. Early in that interval an unreasoning mob-terror seized the Hindu peoples, lest somehow, against all nature, the dummy should come to life. Soon, in swift crescendo, they were rushing to marry off their girls. The very air grew thick with the throb of wedding drums. 'Marriages in the thousands and tens of thousands of children six months and one year old were carried out'* — marriages of infants to a sum total unknowable.

Throughout British India, in whatever communities the custom of child-marriage prevailed, the epidemic raged furiously. But of all the social reformers in the Hindu world, of all those impassioned statesmen who of late had made the Legis-

* *Council of State Debates*, July 14th, 1930, p. 122, Dewan Bahadur A. Ramaswami Mudaliar.

APRIL FOOL'S DAY

lative Chamber resound to their eloquence, which one now stepped forward to denounce that holocaust?

Said an Indian writer in the *Times of India*:

'Thousands of innocent kiddies are being forced into indissoluble wedlock, in view of the "impending danger" and not a little finger is raised to dissuade the people against this cruel business . . . May I know where is the "soul-force" which some years back weaned school-boys and college students from their Alma Maters? Where is the mighty influence that prevailed upon the Bardoli peasants to refuse to pay the tax?*' This is the time for our leaders to prove true to their responsibility. But instead there is silence. Are they afraid to face unpopularity . . .?'

But, for the leaders, the incident was closed. By a well-timed gesture they had brought down the applause of the West – in particular the applause of America. 'Practical politics' had been well and truly served. They saw no need for further interest in the matter.

So came April First, the day when the new law took 'effect' – the day in anticipation of which the

* An allusion to Gandhi, who is as silent as the rest.

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Hindu peoples had run marriage-mad, sloughing off their girl-babies by wholesale. So came April First, 1930 – and nothing – nothing whatever happened.

Now that the panic and confusion are over, now that the dust has settled and eyes see clearly again, the age-old scene re-appears – the Hindu in his millions sitting undisturbed in his ancient way. To-day as of old, he marries his girl-child when he sees fit – always remembering that the younger she is, the greater the sanctity of the marriage, and the higher his own reward in heaven.

APPENDIX I

MEDICAL EVIDENCE

ACCORDING to professional opinion submitted to the Age of Consent Committee, any attempt to determine the average age of Hindu first-motherhood through appeal to hospital records is ill-advised. Indian authorities testify that the proportion of first-motherhood cases brought to hospital is exceedingly small, first confinements being almost invariably conducted at home, by the native midwife or *dhai*.*

Asked by the Age of Consent Committee for specific instances, from their own experience, of the injuries to the wife from cohabitation before full physical development, the doctors often evinced hesitation or unwillingness to comply. The following, however, are among the cases cited:

A. Aged ten. Gross injury. Severe haemorrhage.

* *Evidence*, ii, p. 197, Dr. Manilal H. Bhagat, L.M. and S., Vice-President, Ahmedabad Medical Society. viii, p. 68, Dr. (Miss) B. Thungamma Superintendent, Ishwari Memorial Hospital, Benares. Cf. iii, pp. 37, 58o. vi, p. 157.

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Mental condition, terror almost to insanity. Husband over thirty.*

B. Aged twelve. Cohabitation before puberty. Ruptured uterus. Death. Husband aged twenty-five.†

C. Aged eleven. First coitus resulting in rupture of vagina into peritoneal cavity, peritonitis, death.‡

D. Aged seven. Married at five. Consummation at seven. Very badly injured.§

E. Cases aged eleven or twelve. Very badly lacerated and mutilated. Husbands elderly widowers.||

F. Aged about eight. Ruptured perineum,¶ ‘Such cases are not, as a rule, brought to hospitals,’ is the comment of the doctor reporting the instance.

G. ‘Several cases in hospital suffering from tears sustained by attempted coitus, the haemorrhage from which was so severe that it could only be

* *Ibid.*, i, p. 26, Dr. (Miss) A. C. Scott, Chief Medical Officer, Women's Medical Service, Simla, August 3rd, 1928.

† *Ibid.*, i, p. 286, Dr. Parma Nand, Bannu, September 24th, 1928.

‡ *Ibid.*, ii, p. 131, Dr. (Miss) D. Bolton, W.M.S., head of Zenana Hospital, Dera Ismail Khan. August 6th, 1928.

§ *Ibid.*, iii, p. 215, Miss I. N. Dickinson. October 29th, 1928.

|| *Ibid.*, iii, p. 238, Dr. (Miss) Kashibhai Nowrange. Arya Mahila Samaj, Bombay. October 29th, 1928.

¶ *Ibid.*, v, p. 256, Dr. (Miss) I. M. Roberts, Head of Women's Hospital, American Mission, Madura. August 15th, 1928.

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checked by the insertion of stitches. The girls are very young and the passages not developed enough for married life to be lived.’*

H. Aged twelve. Vulva and vagina badly mutilated. Mental condition affected to point of dementia, When admitted to hospital all vulvar tissues crawling with maggots. Infected with gonorrhoea. Husband [educated official, aged about fifty] has sued for restitution of conjugal rights and, it is understood, has won his case.†

I. Aged seven. Very seriously torn in cohabitation.‡

**Ibid.*, vi, p. 334, Superintendent, Lady Dufferin Hospital, Calcutta. August 11th, 1928.

† *Ibid.*, ix, p. 53, Doctor in charge Zenana and Medical Mission, Kinnaird Memorial Hospital, Lucknow. September 13th, 1928.

‡ *Ibid.*, ix, p. 391, Dr. M. D. Webb, w.m.s., Principal Women's Medical School, Agra. August 14th, 1928.

APPENDIX II

MRS. CHATTOPADHYAYA'S TESTIMONY

As this book consists, in the main, of excerpts from testimonies given before the Age of Consent Committee, it may be of interest to include as Appendices II and III, examples at approximately original length.

From among the women witnesses, Mrs. Chattopadhyaya is chosen – and for the following reasons: A Western-educated Brahmin, Mrs. Chattopadhyaya is a prominent worker and elected officer in Indian Women's Reform movements. She is also a conspicuous militant figure in the Nationalist political ranks. Like her sister-in-law, Mrs. Sarojini Naidu, she was imprisoned, in the summer of 1930, for inciting the people to law-breaking, pursuant of Gandhi's lead. She represents in a word the most active element in the extreme new type of Hindu

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womanhood. And as Mrs. Sarojini Naidu has of late been widely heard in America and England, Mrs. Chattopadhyaya seems entitled to parallel attention, more particularly as she has not hesitated to prove her good faith by placing in evidence the history of her own notable family.*

Where the views of the two sisters appear to differ, it should be remembered that, though speaking from identical ground, one was addressing the West, while the other is working in conference with her own people.

From the written Statement, dated the 7th August, 1928, of Mrs. Kamala Devi Chattopadhyaya, Honorary Organising Secretary, All-India Women's Conference on Educational Reform; appears in *Evidence*, iv, pp. 9-12. It reads in part:

The amendment of 1925† has not brought much relief to the married girl either by postponing the consummation of marriage or stimulating public

* See *post*, p. 240.

† The Amendment of the Age of Consent Law, raising the age of consent for the wife, to thirteen years.

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opinion or delaying the age of marriage. No doubt the age of marriage is rising gradually and opinion is favouring it, but it is certainly due to other causes than the existence of this Section of the Amendment. I am personally of opinion that the law relating to the age of consent cannot bring the necessary relief to the married girl. I am aware of cases where the law has been deliberately ignored. The married girl is usually very helpless in the hands of the husband or his party. She is often threatened with desertion and the threat is carried into effect, if she or her parents resist the husband's wishes. There are instances where the Hindu husband has taken another wife to himself because the girl would not surrender to him. Unfortunately the Hindu law permits the man to marry any number of times while the same right is denied to the girl. This weakens the whole case against prosecuting the offending party and that is where the law has failed. Society does not look with any favour on a deserted wife even though she be the injured party. The idea of absolute surrender to the husband has reigned supreme for so many ages that neither the girl nor her parents, and least of all the orthodox society in

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which these child-wives abound, can be made to view the necessity of resisting overtures on the part of the husband, much less would such people think of prosecuting the offender. There are several cases, and they are now on the increase, where the girl has not been willing to offer herself; but getting no support from anyone in withstanding the husband she has submitted to him and suffered quietly. Even cases of suicide under such circumstances are not unknown.

Moreover it hardly seems justifiable to prosecute the husband, especially when he happens to be a young, ignorant, nervous boy, as so many of them are among the orthodox sections of the community. He is more to be pitied, for he is but a sad victim of an abominable custom that places him in such dangerous situations and unnecessarily taxes his energy and resistive power. What he needs is *protection* and not prosecution. Moreover if the girl and her party do prosecute the man, surely the foundation of a happy and successful marriage is not laid. It might mean only a life-long bitterness. It is not a happy augury to start life by sending the husband to jail or even submit him to public dis-

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grace, particularly when he happens to be a helpless young man. There have been instances where young boys have been forcibly married against their will and they have fallen easy victims. Are these victims to be subjected to further misery? Is it not punishment enough to be thus physically and mentally degraded? Such prosecutions are justifiable where elderly men who marry for the second, third or fourth time are concerned. But to put into force against young helpless boys is only cruelty. Thus the only way of ensuring the health and happiness of the married couple is by postponing the marriage itself, and that will not be practical as long as there is no legislation to prohibit marriages below a certain age.

The usual age at which girls attain puberty ranges from eleven to fourteen. There is no marked difference in the age between the different communities, although there is perhaps a greater tendency to attain puberty earlier in those communities in which child-marriage abounds, since the associations tend to stimulate the sex instinct in the girls earlier than in other community girls.

Cases of cohabitation before puberty are not very common. In the extremely orthodox communities

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the married girl is subjected to cohabitation soon after she attains puberty. These girls are many a time below the age of thirteen, since these girls are married when they are eleven and twelve, as the common belief is that she should enter wedlock before she attains puberty or she will become unchaste. Very rarely do these cases come to court, partly because the very orthodox section of the people do not believe they are violating any law and partly because they wish to avoid public scandal. . . .

The Garbhadhan ceremony* is performed in our part of the country among certain communities. It coincides with the consummation of marriage. It is performed any time after the girl attains puberty, the interval between the two depending on the social views of both parties or also the economic circumstances. There is no doubt that the tendency to delay the ceremony is on the increase, but among the extreme orthodox sets the common belief that the ceremony should be performed on the fifth day after the girl attains puberty still prevails and is observed. But in any case it is rarely put off for more than two years at the very most. The delay

* See pp. 107-112 *ante*.

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in the performance of the ceremony does not always keep the married couple apart. There have been some cases where cohabitation has taken place between the two before the performance of the ceremony itself. . . .

I have come across cases where cohabitation soon after puberty has resulted in serious injury to the girl, as also the progeny. In one case the girl was twelve and she got paralysis and for two years she was confined to bed. But she never really came back to her normal health. In another case the girl was paralysed for life. The age was twelve. The third case where the girl was thirteen, after about ten years in bed, she was able to move about but always with a bent back. Her growth was completely stunted. Even in that state she was made to bear children. The fourth case the girl was eleven. She developed heart disease and finally went in for tuberculosis. All these cases were declared by several doctors to have been due to early consummation of marriage. Girls going in for heart disease, tuberculosis, nervous debility, hysteria, are very common among those girls who have been victims of early married life. Their children are always

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feeble and undeveloped. The very foundation of their constitution is clearly undermined. I know of a case where even the habit of self-abuse in a small child was traced by the doctor to immature consummation of the parents' marriage. Serious disorders of the womb often leading to more dangerous and often incurable diseases are common results. But apart from the physical disorders there have been cases of mental disorders as well. The shock has ended sometimes in enfeebling the girl's mind and stunting its further growth. Then it has also served to create a terror of the husband in the heart of the girl. I have seen over half a dozen cases where the girls used to shriek at the very sight of the husband. Some have refused to go back to the husband or, failing every help, committed suicide. This attitude on the part of the girl is rarely understood or sympathised with. She therefore receives no support from anyone. Some try to resist the man and sustain physical injuries at the hands of the husband. I know of one case where the husband used to actually strangle the girl for resisting him and the girl was between twelve and thirteen. Her parents took away the girl but when the husband

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went to court it could not be proved that the girl had been ill-treated and so the law ordered her to go back to the husband. There are hundreds of cases that one comes across quite commonly in our country where the girls have suffered, their homes have been broken, all because of premature sexual life.

I am strongly of opinion that early consummation and early maternity are responsible for the deterioration of the country. The statistics clearly support this view. Early maternity, which is but the result of early consummation, means weak children and a weak nation. It subtly goes on undermining the whole constitution of the nation. A nation that consists of physically undeveloped mothers and children, must naturally suffer intellectually also. When children are brought into the world in an unfit condition to face the struggles of life, it does not prophecise the building up of a strong nation. Physical deficiency weakens the intellectual calibre as well. Apart from its being a physical and intellectual disaster, it is an economic disaster also. The Director of Public Health in Bengal said the other day 'On an average seven lakhs [700,000] of children were dying every year in Bengal under

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fifteen years of age, that is about fifty per cent of the total number of deaths. A country which was suffering such economic loss could not but be poverty-stricken. The loss to Bengal from the death of her boys and girls was Rs. three crores [30,000,000] every year.' Thus this problem of infantile mortality goes very deep and works havoc all round. Early maternity is a serious handicap to educational development too. The education of girls is broken when they have but hardly begun it. The education of boys among the poorer classes too is arrested since they are forced to seek some means of earning for their wives and children. Even otherwise it proves a serious distraction to students. The married couple has no chance of enjoying a quiet married life even for a while, since they are already burdened with children when they start life. The ambition in many young men is badly crushed if they are overburdened with the one task of making both ends meet. It mutilates the initiative and the adventurous spirit in the youth. This is a great loss indeed to any country.

There is a growing desire to raise the age of consent among the intelligentsia because people are coming

APPENDIX

to see the evil effects of early cohabitation. Even those who do not practise this reform in life are now prepared to intellectually sympathise and support the idea. The orthodox section of course is opposed to its being applied in marital relationship because they think a secular body like the Legislature is not entitled to interfere in the sacred relationship of marriage. As for dealing with unmarried cases, outside the legal circles and the few public-spirited men and women, nobody seriously bothers about the question.

Women as a rule do not favour early consummation for their children, as they are the greater sufferers and the memory of the suffering they had been through in their childhood days, induces them to stretch out their hands to help their children. But the public opinion is not developed sufficiently to encourage them and being timid by nature and made more so by ages of suppression, they have not got the courage to go against the society's opinion and invite social scorn and often much ridicule. Such women now accept the custom as an unavoidable evil.

Mrs. Kamala Devi Chattopadhyaya's oral evidence

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given before the Age of Consent Committee in Simla, Sept. 13th, 1928, is found in *Evidence*, iv, pp. 18-21. It contains, in the following passages, Mrs. Chattopadhyaya's replies to the interrogation of committee-members:—

Mr. Mudaliar: Do you think that we can reconcile orthodox opinion by allowing marriage to be performed at a lower age but preventing Garbadhan ceremony being performed before a certain age?

A. I do not think [Garbadhan] really prevents married people from coming together. I know from personal experience.

Q. Are they not exceptions?

A. There may be exceptions, but they form quite a large number if you take the whole country. . . .

Q. Mr. Sarda's [Hindu Child-Marriage Restraint] Bill as amended by the Select Committee provides generally for a fine and in some cases for imprisonment. Do you think that the punishment as it stands in the amended Bill is sufficiently preventive for orthodox opinion not to perform marriages?

A. I have not seen the Bill. But I know of a case that happened very recently where an injunction

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was issued on some technical ground to prevent a marriage. The marriage was, however, performed though the bridegroom had to pay a heavy penalty. But he did not mind it because he was rich.

Mr. Mudaliar: You say that a boy husband below twenty-one ought not to be punished. Is it in cases where there is a guardian who is responsible for the marriage and the consummation?

A. No, apart from the guardian, there is a conventional opinion which guides the boy at the time.

Q. You are aware that at present under the existing [Age of Consent] law the boy is liable to punishment up to two years' imprisonment. To that extent would you make the law lighter?

A. Yes.

Q. Do you think that a boy between eighteen and twenty-one should be protected?

A. Yes.

Q. Do you think that he is so innocent that he needs special protection.

A. It is not a question of innocence. It is a question of conventions. It is a matter of his being subject to a particular atmosphere and conventional ideas which lead him to live a married life. After twenty-one he

APPENDIX

will have some contact with the outer world and education . . . The boy should in no case be punished, because I feel that he is not really responsible. . . .

Mrs. Nehru: In your answer to our questionnaire you say that the law has not functioned. Can you tell us what the reason is?

A. In rural areas many people do not know about it. I have personally asked people and they told me that they did not know that girls were protected. As for the educated classes, they are not very anxious to have publicity given to these things.

Q. Do you think that if enough publicity is given to the provisions of the law and means are taken to make it well-known it would have effect?

A. It might, I do not know. In towns many people know it, but they do not resort to it; moreover, it is rather unpleasant that the marriage should start in such inauspicious circumstances as dragging the boy to court, or have a fine imposed on him. Even if the case is dismissed, there is the unpleasantness created. It is also likely that the boy might desert the wife and marry again . . . At present, I know that even in cases of ill-treatment the girls do not resort to law because of this danger.

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Q. In your reply to question [No. 11]* you have given cases of injury. Were the cases among Brahmins or Non-Brahmins?

A. Being a Brahmin I come more closely in contact with Brahmins, and my investigation has been confined more or less among the people whom I have known intimately. It has therefore been possible for me to know what led to these injuries. Some of them happened in my own family.

Q. Do you think there is any difference between Brahmins and Non-Brahmins?

A. In certain Non-Brahmin communities child-marriage does exist. But it is mostly among Brahmins.

Dr. Beadon: In the course of your answer to question No. 11, you have said serious disorders of the womb, often leading to more dangerous and often incurable diseases, are common results. Can you give instances? Do you mean that these disorders are due simply to the early consummation of marriage or to frequent child-bearing?

* Question 11, of the Committee's Questionnaire is: 'During your experience, professional or otherwise, have you come across cases in which cohabitation before puberty, or after puberty but before full physical development of a girl resulted in injury to her health or body or prejudicially affected her progeny?'

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A. No, to early consummation of marriage. That is what the doctor has told.

Q. Then you have said, 'I have seen over half-a-dozen cases where the girls used to shriek at the very sight of the husband.' Were these the cases in which the husbands were about the same age as the girls or were the husbands elderly men?

A. I think only in one case it was an elderly man. In other cases men were young, below twenty-one.

Q. Then you have said, some have refused to go back to the husbands or failing every help committed suicide. Do you know of any case?

A. I know of one case personally, but of course I have heard of several in which the girl refused to go back to the husband's house.

Q. What was the age in the case you know of?

A. Thirteen.

Q. How long before had she been married?

A. One and a half years.

Q. Did she make complaints to her parents?

A. Not complaints exactly. She was very miserable about it. Ever since she was married she was miserable.

Q. Was it a case like that in which a girl goes to her

APPENDIX

father-in-law's house and she lives practically a slave working the whole time and never gets relaxation, or was it a case in which she could not bear the strain of married life?

A. She was pretty well off. I don't think it was due to economic conditions. She became quite a nervous wreck within about six months of her going to her father-in-law's house. She did not want to go back to her husband's house. She was being forced to and when the time actually came she committed suicide.

Q. What was the age of the husband?

A. I think he was eighteen or nineteen.

Q. Then in the case which went to the court and could not be proved was the husband a young man or an elderly man?

A. He was a young man. He has now gone to England and has married an English lady and the girl has been left to herself.

Q. All these cases were in the Madras Presidency?

A. Yes.

Q. Were they Brahmins?

A. Yes.

Q. Among Hindus men are allowed to marry one,

APPENDIX

two, three or four times. Would you be in favour of a legislation preventing men to re-marry?

A. I think in such cases a man should not be allowed to marry a second time.

Q. But the law will apply to all.

A. I don't think a man should have the option unless the woman is also given the same privilege.

Q. But that is against Hindu custom. Then would you be in favour of preventing the man marrying again?

A. No.

APPENDIX III

SIR TEJ BAHADUR SAPRU'S

TESTIMONY

SIR TEJ BAHADUR SAPRU, Brahmin, long conspicuous in Indian public life, became known to the Western world through his prominence at the London Round Table Conference of 1930-31, and his subsequent political negotiations in India, as a Nationalist leader, all of which gives special interest to his opinions here re-printed. They must be read, however, with the clear understanding that they are held by only a minority even of the Western educated Hindus.

Sir Tej Bahadur Sapru's statement, to be found in *Evidence*, viii, pp. 246-252, was given orally before the Age of Consent Committee, when it sat in Allahabad on January 16th, 1929. The following exchange took place, Sir Tej Bahadur Sapru answering the Committee's questions:—

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Q. Can you suggest any method by which a vast number of orthodox people would be permitted to have pre-puberty marriages which they look upon as essential and yet postpone consummation effectually beyond sixteen or eighteen?

A. My method is one of undisguised warfare against the orthodox people.

Q. Can you suggest any other remedy by which the two views could possibly be reconciled?

A. Absolutely irreconcilable. You cannot reconcile common-sense with the Shastras or with the orthodox books on religion. That is my honest opinion.

Q. Suppose a law is passed permitting marriages at any age, pre-puberty or otherwise, but enjoining that a girl shall not be sent to her father-in-law's house till she completes her sixteenth year and imposing a fine for breaking the law, do you think that in that case we can achieve our object?

A. I believe it is possible provided Government have substantial police forces in India and post a policeman in every orthodox house.

Q. Do you in fact think that this is not feasible?

A. Absolutely infeasible. But even if a girl is

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enjoined not to go to her father-in-law's house before the prescribed age, and if the law is broken what is the penalty that you are going to impose?

Q. The penalty would be fine or imprisonment. Will that not do?

A. So far as fine is concerned, well, I believe most of the orthodox people will much sooner pay the fine than forego their orthodox views. So far as the question of punishment is concerned, I am willing to support the Committee provided a very severe penalty of imprisonment for the father, father-in-law, mother, mother-in-law and for the husband is given. Nothing short of that, I would agree to.

Mr. Yakub: What punishment would you suggest?

A. Five years' imprisonment.

Q. Is that the only way by which you can bring a rule into force in this country? Will you not also give whipping to the boy?

A. I have no compunction in regard to this matter and I will be still more severe if the husband happens to be a graduate or an undergraduate of any University.

Q. Do you think that Government or the Legislature would be justified in legislating upon a matter of

APPENDIX

this kind which is a social or socio-religious question?

A. I think that there is ample justification both for the legislature and for the Government to legislate upon a matter of this kind, but I am not prepared to credit the legislature or the Government with the necessary amount of courage to undertake it.

Q. Do you think that the Government should legislate for instance in the matter of prohibiting drinks?

A. I am an absolute opponent of prohibition.

Q. How do you distinguish between the two cases? One is as bad an evil as the other.

A. I don't think that the evil is of the same character or of the same extent. Amongst the 350 millions of people you will find that the number who drink is comparatively very much smaller than the number of parents who get their girls married at the age of 10 or 11.

Evidence, viii, p. 248. No. 3.

Later in his testimony the witness says: 'I have come across in my professional career scores of cases which are to my mind indefensible on that ground. If I were at liberty to mention the consequences of certain cases during the last

APPENDIX

thirty-four years, I can give you a large number of them where girl-mothers have suffered on account of married life. I remember one very big case in which I appeared several years ago in which the girl was married at the age of twelve and she died at the age of nineteen leaving three children and there was a dispute with regard to the property. She died partly of phthisis and partly of insanity and the medical evidence was absolutely reliable in that case, because it was given by some most eminent English doctors, who attributed death to the excess of married life.'

Q. When did she begin her maternity?

A. Before she was fourteen years old she began her maternity. I also know another case in which a rich man at the age of forty-six married a girl of fourteen and that girl died at seventeen and she also died of phthisis.

Q. Was she a rich girl?

A. She herself was not a rich girl. She came from a poor family, but her husband occupied a very prominent position and was a Rajah.

Q. What about the children of these early mothers?

A. They are generally very weak and feeble.

Q. Don't you think that if we go up to eighteen

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for marriage, there will be a terrible amount of opposition, etc.?

A. I do not believe in that at all. I believe there is as much opposition without it as there will be with it.

Evidence, viii, p. 248. No. 4.

Mrs. Nehru: Do you think that it is impossible to bring about any reform by terrorism specially when the majority of the people are orthodox?

A. It is not a question of terror to my mind, but it is a question of strength. If the Government is prepared to face some silly questions which arise in the case of our national life, why should not the Government take a bold step in this?

Q. But where a democratic Government is concerned and the majority of people are orthodox is it possible?

A. But you cannot have a truly democratic Government so long as the people are orthodox. That is my conviction.

Q. I suppose you know a great deal about Turkey. Can you tell us how those social laws are administered there? •

A. Personally speaking I am a great admirer of

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Turkey and the Turkish statesmen. When I travelled there, I saw many schools and colleges where girls are educated. I think the girls' schools there might be favourably compared with some girls' schools that I saw in England and France. The girls are absolutely free. There are a number of girls employed in the post offices, in the banks and in the public offices. They are extremely dignified girls and very well-behaved. All these things were brought about in the case of the Turks, although the majority of them never agreed to all these reforms, because there was one strong man at the helm of affairs who thought that his policy should be carried out, and he never shrunk from the consequences.

Q. What methods did he adopt to bring about those reforms when the majority of the people did not agree with his point of view?

A. I think it was by sheer force. . . .

Mr. Mitra: In the law of marriage are you ready to provide for exemptions?

A. No.

Q. You certainly think that there are some orthodox people who sincerely believe that according to the Shastras they should have pre-puberty marriages?

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A. I don't dispute their sincerity or their existence, but I regret it.

Q. Are you not ready to make any special provision for them?

A. No.

Q. Don't you think that those orthodox people who are in a majority will resent this marriage law and will try to resist it?

A. I have no doubt they will resist it and they have resented during these 2,000 years.

Q. Shouldn't their resentment take some serious shape?

A. If it takes a serious shape Government should be prepared to put it down.

Mr. Shah Nawaz: Do you think that women have been so far the victims of these social evils?

A. I think so.

Q. Do you think that fixing the minimum marriageable age will be one of the first steps towards their emancipation?

A. It will be one of the steps but I won't say it will be a very big step.

Q. We are told by some Brahmin witnesses at any rate that women generally have a desire to be

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married early and also have a desire to be consummated. Do you agree?

A. I believe to a certain extent it is true.

Evidence, viii, p. 250. No. 6.

Q. What is the opinion of the women from countryside, so far as the orthodox women are concerned?

A. There is not much to choose between them and the orthodox men.

Q. Don't you think that some orthodox Brahmins in their heart of hearts feel that this is a tremendous evil, viz., early marriage and early consummation?

A. Well, if they feel like that, then I can say they are not orthodox. They are insincere.

Q. Do you think that all the orthodox men are insincere?

A. If you ask my candid opinion I believe at least sixty per cent of the so-called orthodox men are insincere.

Q. Is it not a fact that people do not know the evil effects of early marriage, therefore they have recourse to early marriage?

A. They have known it for generations, but they have not the courage to act upon it . . . An ordinary

APPENDIX

graduate understands it, and my grudge is against the ordinary graduate. . . .

Q. Before enacting this law Government should undertake propaganda and make every person to understand that it is evil to marry early. That propaganda can be best carried on by school text books and in colleges.

A. I have been hearing that for the last forty-five years but nothing has been done. No Government can undertake propaganda of this character. . . .

Q. What are your reasons for fixing the age of marriage at eighteen?

A. Because I believe that in this country physically girls do not arrive at maturity before the age of eighteen. I should give them time to acquire more knowledge and experience.

Q. I don't think you can visualise the period when every girl will be able to read in college?

A. I do emphatically when every girl ordinarily will be decently educated.

Q. So far as physical development is concerned doctors are unanimous that at sixteen there will be no physical injury to the girl or her progeny. Would you be satisfied if sixteen is fixed as a first step?

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A. I beg to differ from these medical men. They may be sound medically, but socially they are absolutely wrong.

Evidence, viii, p. 252. No. 9.

Q. If there is provision for occupation of their minds and if the Government provides compulsory education then you would recommend marriage at eighteen and not before that?

A. Compulsory education or no compulsory education the nation should not be allowed to further deteriorate.

Q. The lawgivers* recommend sixteen?

A. My answer is, make a bonfire of these lawgivers. These lawgivers are at the root of our downfall. I have no respect for any such lawgiver.

Q. May I know that you want as little interference with the social and religious customs of the people as possible?

A. I want as much interference in their religious views as possible provided you have got a national government or even foreign government which is national in its outlook. . . .

* The authors of the ancient Hindu religious laws, as given in the *Shastras*.

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Q. Do you think there will be great discontent in the country if the Government does not make any legislation fixing the age of marriage?

A. So far as the bulk of the educated people are concerned I think there is not much to choose between them and the orthodox people; . . . they are prepared to rebel against other things but not against their social system. That is my idea of my educated compatriots.

Q. You complain that educated people do not do any work or propaganda with regard to this evil?

A. They fight shy of their intellectual convictions.

Evidence, viii, p. 254. No. 11.

Mr. Yakub: How long have you been associated with the legislature of this country?

A. I entered the United Provinces Legislative Council in 1913 and I was associated with the legislature – provincial or central – in one capacity or another from 1913 to 1922.

Q. You were also Law Member of the Viceroy's Executive Council?

A. Yes.

Q. During all this time did you initiate or propose

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any law or measure to remedy this evil of early marriage?

A. No.

Q. If you were serious about the evils of this system may I know what was the reason for your not introducing or producing any such measure?

A. In the old councils it was no use. There was no such thing as a non-official elected majority.

Evidence, viii, p. 254. No. 12.

Q. In 1921-22 when you were Law Member of the Government of India there was a non-official majority.

A. But you must remember that the Law Member has no power of initiation.

Q. Did you recommend to anybody or make any suggestion?

A. I was a very strong supporter of every social legislation. I think people came up in my time with a Bill.

Q. Had you any hand in that Bill?

A. No, it was non-official Bill. I was a part of the machinery of Government which is terribly shy of introducing any social legislation.

Q. When you were a non-official member, even then you did not bring in any measure?

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A. No.

Q. What was the reason?

A. Because I believed I would not get any support from the Legislative Council. I think the present Assembly is much worse than the Assembly in my time. There are more orthodox people now who are too apt to raise a cry of religion in danger than there were in my time.

APPENDIX IV

THE SARDA BILL ACT NO. XIX OF 1929

An Act to Restrain the Solemnization of Child Marriages.

As passed by the Indian Legislature; and as signed
by the Governor-General on October the 1st, 1929.

Whereas it is expedient to restrain the solemniza-
tion of child marriages: It is hereby enacted as
follows:

Short title,
extent and
commence-
ment

1. (1) This Act may be called the Child Marriage
Restraint Act, 1928.

(2) It extends to the whole of British India,
including British Baluchistan and the
Sonthal Parganas.

(3) It shall come into force on the first day of
April, 1930.

Definitions.

2. In this Act, unless there is anything repugnant
in the subject or context –

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- (a) 'child' means a person who, if a male, is under eighteen years of age, and if a female, is under fourteen years of age;
- (b) 'child marriage' means a marriage to which either of the contracting parties is a child;
- (c) 'contracting party' to a marriage means either of the parties whose marriage is thereby solemnized; and
- (d) 'minor' means a person of either sex who is under eighteen years of age.

3. Whoever, being a male above eighteen years of age and below twenty-one, contracts a child marriage shall be punishable with fine which may extend to one thousand rupees.

Punish-
ment for
male adul
below
twenty-
years of
age marr
ing a chil

4. Whoever, being a male above twenty-one years of age, contracts a child marriage shall be punishable with simple imprisonment which may extend to one month, or with fine which may extend to one thousand rupees, or with both.

Punish-
ment for
male adul
above
twenty-
years of
age marr
ing a chil

5. Whoever performs, conducts or directs any child marriage shall be punishable with simple imprisonment which may extend to one month, or with fine which may extend to one thousand rupees,

Punish-
ment for
solemnizir
a child
marriage.

APPENDIX

or with both, unless he proves that he had reason to believe that the marriage was not a child-marriage.

Punish-
ment for
parent or
guardian
concerned
in a child
marriage.

6. (1) Where a minor contracts a child marriage, any person having charge of the minor, whether as parent or guardian or in any other capacity, lawful or unlawful, who does any act to promote the marriage or permits it to be solemnized, or negligently fails to prevent it from being solemnized, shall be punishable with simple imprisonment which may extend to one month, or with fine which may extend to one thousand rupees, or with both:

Provided that no woman shall be punishable with imprisonment.

- (2) For the purposes of this section, it shall be presumed, unless and until the contrary is proved, that, where a minor has contracted a child marriage, the person having charge of such minor has negligently failed to prevent the marriage from being solemnized.

Imprison-
ment not to
be awarded
for offences
under
Section 3.

7. Notwithstanding anything contained in Section 25 of the General Clauses Act, 1897, or

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Section 64 of the Indian Penal Code, a Court sentencing an offender under Section 3 shall not be competent to direct that, in default of payment of the fine imposed, he shall undergo any term of imprisonment.

8. Notwithstanding anything contained in section 190 of the Code of Criminal Procedure, 1898, no Court other than that of a Presidency Magistrate or a District Magistrate shall take cognizance of, or try, any offence under this Act.

Jurisdiction under this Act.

9. No Court shall take cognizance of any offence under this Act save upon complaint made within one year of the solemnization of the marriage in respect of which the offence is alleged to have been committed.

Mode of taking cognizance of offences.

10. The Court taking cognizance of an offence under this Act shall, unless it dismisses the complaint under Section 203 of the Code of Criminal Procedure, 1898, either itself make an inquiry under Section 202 of that Code, or direct a Magistrate of the first-class subordinate to it to make such inquiry.

Preliminary inquiries into offences under this Act.

11. (1) At any time after examining the complainant and before issuing process for

Power to take security from complainant

APPENDIX

compelling the attendance of the accused, the Court shall, except for reasons to be recorded in writing, require the complainant to execute a bond, with or without sureties, for a sum not exceeding one hundred rupees, as security for the payment of any compensation which the complainant may be directed to pay under Section 250 of the Code of Criminal Procedure, 1898; and if such security is not furnished within such reasonable time as the Court may fix, the complaint shall be dismissed.

V of 1898.

- (2) A bond taken under this section shall be deemed to be a bond taken under the Code of Criminal Procedure, 1898, and Chapter xlii of that Code shall apply accordingly.

V of 1898

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